00027459

THE
ASIATIC SOCIETY OF BOMBAY
TOWN HALL, BOMBAY-1.

Digitized with financial assistance from the
Government of Maharashtra
on 23 March, 2016

UNDER THE SUPERINTENDENCE OF THE SOCIETY FOR THE DIFFUSION OF USEFUL KNOWLEDGE.

POLITICAL PHILOSOPHY.

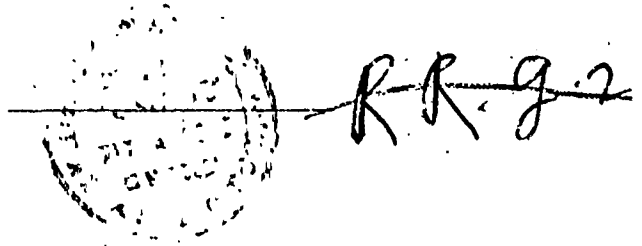
27459 a.c

PRINCIPLES OF GOVERNMENT.

MONARCHICAL GOVERNMENT.

EASTERN MONARCHIES.

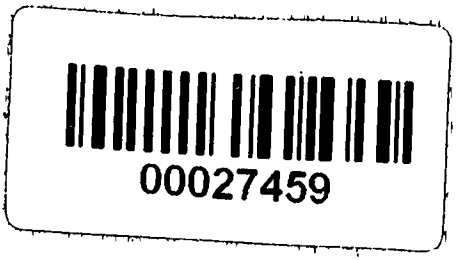
EUROPEAN MONARCHIES.



LONDON:
PUBLISHED BY THE SOCIETY, 59, LINCOLN'S INN FIELDS;
AND
CHAPMAN AND HALL, 186, STRAND.

1842.

321.
Pol / Pol
27459
321.61
321.7



CONTENTS.

PRELIMINARY DISCOURSE.

Objects, Pleasures, and Advantages of Political Science. . Page 1

CHAPTER I.

FUNDAMENTAL PRINCIPLES OF GOVERNMENT.

Foundation and origin of Civil Governments—Doctrine of Original Contract shown to be groundless in point of Fact, and impossible in Theory—Mr. Locke's Argument considered—Doctrine held by the opposite Party, under Sir Robert Filmer, of the Patriarchal Origin of Government and Divine Right—Locke's Doctrine unfounded; but the Practical Inferences comparatively safe—Filmer's Facts correct, but the Inferences groundless and dangerous—Notion of Divine Right and Passive Obedience examined—The Question of the Form of Government is one of Expediency—This is the sole Ground of the *Duty* of Obedience and the Right of Governing—The Question of Resistance examined—This shown to depend on Expediency—The Doctrine of Resistance established by Parliament at the Revolution in 1688—History of its Adoption, and Conduct of the Two Parties—Limitation of the Right deduced from Expediency—Hazards of Change, and Evils of Civil Struggle—Doctrine of Prescription examined—This shown only to be either a mere Advantage and no Ground of Right, or to be resolvable into expediency as far as it is a Ground of Right—Distinction of this from the Case of Property—General Conclusions:—1. That through the whole System of Society, Expediency, or the general Good of the Community, is the very governing Principle of all Right—2. That this is also the safest Foundation for the Peace and Good Order of the State—Doctrine of Resistance further explained and illustrated—Practical Limitation of the Right—Statement of the Doctrine by Paley, though less cautiously—Statement by Blackstone, who adopts it entirely—The Origin and History of the Two Parties, Whig and Tory, which have sprung out of the Controversy on this Doctrine—State of the Question in 1688—Account of the Two Parties, and the Modifications which they have in late Times undergone. . p. 33

CHAPTER II.

FUNDAMENTAL PRINCIPLES OF GOVERNMENT.—(*Concluded.*)

Necessity of a Supreme Power in every State—Explanation of the phrase Supreme Power—Its Division into Legislative, Executive, and Judicial, of which the First comprehends the other Two—The various Ways in which this Supreme Power may be established, distributed, and exercised; forming the Difference between one Constitution and another—Test of a Government being good, does it secure good

Laws at a cheap rate both of expense and subjection?—The same Constitution may not be the best for Countries in different circumstances—Threefold Division of Government, into Monarchy, Aristocracy, and Democracy—These Forms are often mixed together, though the mixture is sometimes only apparent—Manner in which one Form degenerates or rises into another—Progress of Education in every People fitting them for Self-government—The things in which such Education consists—Consequences of it may be to prevent as well as to occasion a preference for Republican Institutions—Illustrations of this from the conduct of the People, in cases where they have a direct interest—Error of deducing Power from the People as if they ever actually conferred it—Doctrine that they are the Object of all Government, and that Rulers have no separate or permanent Rights—Erroneous Opinions of Mr. Burke on this subject—Principle of Representation—Greek Republics—Montesquieu. Page 65

CHAPTER III.

ABSOLUTE MONARCHIES OF THE EAST.

Origin of Monarchy and its general prevalence—Manner of choosing the Chief, when the Patriarchal Government had ceased—Institution of Hereditary Succession—Manner in which the Chiefs strengthened and transmitted their Power—Complete establishment of the Hereditary Principle, a refinement of civilized Times—Government of TURKEY—Sultan absolute—Mohammedan Faith contributes to submissiveness—Levying of Taxes—Absence of Nobility—Koran affords no effectual check on Sultan's Power—Dread of Rebellion the only restraint—Government of PERSIA—Checks even feebler than in Turkey—Despotism more cruel than there—Oppression exercised in Taxation—Nadir Shah—Kerim Khan—Despotic Government unfavourable to the permanence of the Sovereign or of his Dynasty—Tables of Succession in Turkish and Persian Monarchies. p. 97

CHAPTER IV.

MONARCHIES OF THE EAST—(*Concluded.*)

Other Eastern Monarchies less known in ancient Times—Differ more widely from European Nations—Reason why many of their Governments need not be particularly described—*Birman Empire*, or Kingdom of Ava and Pegu, to be more fully considered—General View of its History—Government—Bearing of the Religion upon the Power of the Sovereign—His absolute Prerogative—Clergy—Their Merits as Educators—General Tolerance—Judicial System—Council and Ministers—Absence of Hereditary Rank—Payment of Public Functionaries by Perquisites resembling the Arrangements of the Feudal System—Progress accidentally made in Improvement—General Submission of the People and Supremacy of the Sovereign—Cruelties exercised—Insecure Tenure of Power—Reason for postponing the Consideration of the Chinese and Russian Governments. p. 129

CHAPTER V.

EFFECTS OF ABSOLUTE MONARCHY.

Effects of Absolute Monarchy—General Misery and Corruption—Destructive Action on the National Character and on the whole frame of Society—Stationary Condition

of Society resulting from it—Singular and accidental Exception—Alleged Advantages of Absolute Monarchy—How far favourable to Unity of Design and Promptitude of Council—Disadvantages attending this kind of Promptitude—Superiority of Absolute Monarchy in Promptitude of Action—Office of Dictator at Rome—Comparative View of the Advantages of Absolute and Popular Governments in War and in Negotiation—Warlike tendencies of Absolute Governments—Want of Stability in them—Polish of Manners and the Fine Arts may flourish under them—This position subject to Limitation—Estimate of the Refinements under Absolute Government—Dangers of admitting any of the Practice or Spirit of Despotism into Free States—Welfare of the People the only consideration in resisting a bad Government. Page 140

CHAPTER VI.

GOVERNMENT OF CHINA.—JAPAN.

Chinese Government is an absolute Monarchy, but modified by ancient Institutions—Anomalous condition of China—Sketch of its early History—Final conquest by the present Dynasty of Manchow Tartars—Parental authority foundation of Political Institutions—Mutual responsibility—Reverence for Learning—Confucius—Aristocracy of Learning—Slight estimation of Soldiers—The Arts and Sciences not progressive—Maxims and Habits of the Nation a check upon Oppression—Religion—Emperor sole Priest—Public Functionaries—Degradation of People renders Public Opinion powerless against the Emperor—Instances of weakness of Government—Incapacity to maintain large Army—Circumstances tending to Improvement of People if there were a change of Government—Education in China insufficient and ill directed—Difficulty of obtaining accurate Knowledge of China—Authorities—JAPAN anciently governed by a High Priest; in 1583 the Secular and Religious Functions divided—Petty Chiefs exercise Sovereign Power in their own Districts—Religious Toleration—Exclusion of Foreigners—Sanguinary Code of Laws. . . . . p. 161

CHAPTER VII.

GOVERNMENT OF RUSSIA.

Uncontrolled Power of the Sovereign—Fallacies of Authors in speaking of its Limits—Catherine II.'s Defence of it—Origin of the Monarchy—Absolute Power of the Sovereign a favourite with the Nobles—Formal establishment of Despotism by Peter I.—Succession to the Crown—Real Nature of the supposed Elections—Romanhoff Family—Peter I.—His Son's suspicious Death—Sovereigns since Peter I.—Illustrations of Principles respecting Absolute Monarchy—Insecurity of Absolute Sovereigns—Levelling policy as to ranks in Russia—Administration of Justice—Check from fear of Revolt—Inefficient—Cruelty and Caprice of Russian Sovereigns—Russian and Turkish Governments compared—Similar Apologies for Abuses in Free Governments—Judicial System in England—Check from Public Opinion in other Countries—Foreign Policy of Russia—Constant Acquisitions—Warlike Nature of Despotism—Sketch of Russian Aggression—Principles illustrated—Sacrifice of Public Interest to the Sovereign's Caprice—Personal Feelings the guide of Russian Foreign Policy—History of Russian Aggression continued—Origin of Polish Partition—History of Russian Civilization—Popular Errors respecting Authors of great Improvements—Peter I., and those who preceded Him in this—Voltaire's misconduct—APPENDIX;—Organization of Russia—Its Government and Administrative Departments. . . p. 193

CHAPTER VIII.

THE FEUDAL SYSTEM.

Decline of the Roman Empire—Its weakness and division—State of the barbarous Nations—Germans, Goths, Vandals, Scythians, and their Subdivisions—Alans, Huns, Burgundians, Lombards, Franks—The Irruptions of these, caused by their Numbers increasing beyond their Resources—Irruption of the Goths in the South—Of the Franks into Gaul—Of the Huns into Italy and the North—Of the Visigoths into Spain—Of the Saxons into Britain—Of the Salian Franks into Gaul—Of the Ostrogoths into Italy—Use of tracing these Events as giving rise to different Monarchies—Summary of the Irruptions and Settlement of the Barbarians—General Principles applicable to them all—Territorial acquisition the Object of all the Emigrations—Territorial distribution the result—Origin of Feudal Grants—Whether originally at will—Different Opinions examined—Fundamental Principle of the System—Sub-infeudation—Allodial land—Its conversion into Feudal—Duties of Vassals—Allegiance—Homage—Fealty—Services—Their Commutation—Scutage—Relief—Heriots—Fines—Aids—Ward—Marriage—Origin of Copyholds—Villenage. Page 257

CHAPTER IX.

FEUDAL SYSTEM.—(*Concluded.*)

Effects of the Feudal Relation upon Government—Power of the Barons—Right of Rebellion—Precarious Military Power of the Crown—Right of Private War—Legislative Power—Origin of Estates and Parliaments—Judicial Power—Effects of Feudal Relations on Society—Barbarous Habits of the Feudal Chiefs—Love of War—Subordination and Oppression—Origin of Nobility—Importance given to Landed Property—Judicial Power of Barons—Effects of Hereditary Aristocratic Principles—Encouragement of Warlike Habits—Discouragement of Improvement—Undue Veneration for Antiquity—Crusades—Chivalry—Benefits derived from these—Good effects of the Feudal System—Decline of the System—Rise of the Towns. . p. 293

CHAPTER X.

CONSTITUTIONAL MONARCHY.

Origin of Monarchy—Of European Monarchy—Its rise out of the Feudal System—That System, how far to be traced in other Countries—Africa, South America, Asia, Turkey—Differences in all these cases—Reasons why no free Government arose out of these Systems—Operation of the Feudal system in Europe—Hereditary Nobility—Rise of the Towns—Assemblies of States—Power of taxing—Judicial Bodies—Diffusion of Knowledge—Public Opinion—Privileged Orders, the main Distinction of European Monarchy—Their resistance to the Crown—Their responsibility—Their weight with the People—Their Services to the Crown and the State—Their abuse—Sweden; Denmark; Hungary; Poland—Their resistance to Improvement—Burke's Doctrines—Natural Aristocracy—Progress of the Crown's power—Frees itself from the Feudal tyranny—Joins with the Nobility—Puts down or disuses Popular Assemblies—Employs standing Armies—Gains the Clergy—Error of Montesquieu—Effects of Monarchy—Tendency to Despotism—Personal caprice—People sacrificed for Princes and Nobles—Tendency to War—To extravagance—Military force—Monarchical arrangements in all Departments—Primogeniture—Entails—Arbitrary proceedings—Influence of Monarchy on National Character—Vigour of Administration—Great Benefits of Hereditary Succession. . . . . Page 329

CHAPTER XI.

THE FRENCH MONARCHY.

Traditions respecting Pharamond—The four Barbaric Laws—Salic, Ripuary, Burgundian, Visigoth—Clovis—Foundation of the Monarchy—First or Merovingian race—Rois fainéans—Mayors of the Palace—Origin of the Office—Their usurpation—Similar usurpations in Asia—In Spain—Crown united with the Office by Pepin—Second or Carlovingian race—National Assemblies—District courts—Rachimburghers or Ahrimans—Succession to the Crown—Appointment of Bishops—Councils—Charlemagne—His administration—His Institutions—Echevins or Scabini—Missi Dominici—National assemblies—Aristocracy restrained—Crown's great Power—All Functionaries appointed by it—Clerical power restrained—Origin of Tithes in France and England—Conduct of the Clergy—Origin and effects of Monastic orders—Military establishment—Character of Charlemagne—Appendix: Tables of the Three Races. p. 365

CHAPTER XII.

THE FRENCH MONARCHY—(*Continued.*)

Partition of Charlemagne's empire—Louis le Débonnaire—Association of Sons in the Monarchy—Encroachments of Baronial power—Of Clerical power—Of Papal authority—Power of the Crown destroyed—Usurpation of Hugh Capet—Third race—Change in the Laws—Compilation of the Laws—History of local and general Laws—History of the Parliament of Paris—Sale of Offices—Opinions of Montesquieu and Bentham—Tenure of Offices—Functions of the Parliament—Its struggles—Louis XIV.—The Regent Orleans—Law and Dubois—Louis XV.—Beds of Justice—Provincial Parliaments—Influence of the Parliament or legal Aristocracy, compared with that of the States-General—Origin of the States—Feudal Revenues—Taxation—Taille—States, general and particular—History of the States-General—Last meeting under Louis XIII.—Interval—Meeting under Louis XVI.—Revolution—Constitution of the States-General. p. 397

CHAPTER XIII.

THE FRENCH MONARCHY—(*Concluded.*)

Rise of the Towns—Louis VI.'s Charters—Louis VII.—Extension of Dominion—Real foundation of the Monarchy—Union of the Great Fiefs—Its operation upon the Constitution—Different circumstances of England and France—Jurisdiction of the Barons supplanted—Character of St. Louis—Evils of Enthusiasm—Baronial Right of private War abolished; of Taxing; of Coinage; Exemption from Taxes—Power of the Crown to Tax—Its interference with the Coin—Its alliance with the Aristocracy—Standing Armies—Charles VII. and Louis XI.—Foreign Mercenaries—Louis XII.—Charles IX.—Persecutions—Louis XIII. and XIV.—Absolute Power—Its influence on the National Character—Lettres de Cachet—Nobility—their Privileges, ancient and modern; Sold; Forced; Suspended; Forfeited—Division of Fiefs—Jurisdiction of Lords—Feudal Privileges and Exactions—Justice: haute; moyenne; basse—Epices—Vacations—Solicitation of Judges—Droits; honorifiques; utiles—Retrait: féodal; censuel; lignager; conventionel—Lods et Ventes—Quint; requint—Réméré—Droit de franc fief—Columbier—Corvées—Financial system—Généralités—Intendans—Pays d'élection and Pays d'états—Financial oppression—Privileged classes—General character of the Government—Note on Works upon the French Monarchy. Page 433

CHAPTER XIV.

THE GERMANIC EMPIRE.

Dissolution of Charlemagne's Empire—German Princes—Election—Interregnum—Manuary Right—Origin of the Empire—Federal Government—Its Origin—Federal Leagues of Italy—Of Greece; Bœotia; Achæa; Elis; Arcadia;—Of the Asiatic Colonies—of the Asiatics—Imperfect Leagues; Thessalian; Œtean—Advantages and Disadvantages of a Federal Government—Difference of the Federal and Representative Principles—Balance of Power—Amphictyonic Council—Argolitan Council—Four Foundations of the Germanic Constitution—Its Republican Nature—Capitulations—Conclusum; Recess—Electors—Great Officers—Diet; its Constitution—Colleges; Benches; Votes—Imperial Commissary; Co-commissary—Course of Proceeding at the Diet—Chamber of Watzlar—Aulic Council—Circles—Contingent—Mercenaries—Leagues of the Rhine and Hanse Towns—Benefits derived from the Germanic body—Origin of Public Law—Its Objects and Provisions—Popular Government favourable to them—Difference of Public and Municipal Law—Balance of Power—Dissolution of the Empire—Confederation of the Rhine—Its Military Character—Napoleon's Power—Germanic Confederation—Its Structure—Functions, Civil and Military—Breach of Faith with the People—Edicts on Popular Rights and the Press—Adoption of the Principles of the Holy Alliance. p. 473

CHAPTER XV.

GERMAN KINGDOMS.

Federal Unions of two kinds: Proper, and Improper or Imperfect—Examples of each—Differences between the two—General Principles applicable to each—Examples in ancient and modern times—Different origin of the two kinds—Their different tendency and consequences—Examples—Effects of National and Individual Prejudices—Inefficacy of Free Institutions under imperfect Federal Unions—Illustrations in Germany; Chartered Colonies; Ireland, Scotland, Hungary—Advantages for Defence—Complete Independence best of all where possible—Complete Union next best—Bohemian Constitution—Importance of the Kingdom—Its general History—Austrian Succession—Twice interrupted—By the Elector Palatine—By the Elector of Bavaria—Destruction of the Balance of Power by Prussia—States of Bohemia—Power of the Crown—Peasantry, villenage—Toleration, clergy—Military Conscription—Moravia—Austria—Tyrol—Prussian Monarchy—Brandenburgh—Successive acquisitions in Poland, Germany, Switzerland, Holland—States disused—Government—Frederick's Policy—His Reforms—Napoleon's Reforms—Those of Frederick's Successors—Delay of Representative Government—Different conduct as to the Press—Vices of the Prussian System—All improvement precarious without Popular Constitution—Proofs from the History of Prussia, Austria, France, Hanover, England—Instances of remains of Feudal Restraints—Saxony—Lusatia—Juliers and Berg—New Constitutions of Saxony, Bavaria, Wirtemberg. Page 505

CHAPTER XVI.

ITALIAN MONARCHIES.—PAPAL STATES.

Arrangement of the subject—Lombardo-Venetian Kingdom—Sardinian Monarchy—Principalities: Parma, Modena, Lucca—Tuscany—Unions with the Papal States—with Naples—Common Wealth of the Middle Ages—Their Aristocratic Character—Factions of Guelphs and Ghibelins—Their mischiefs—Podestàs—Overthrow of

Commonwealths—Rise of Principalities—Peculiarities of Italian Polity—Papal Government—Temporal Sovereignty—Exarchate—Gifts of Pepin and Charlemagne—Spiritual Power—Conflict with the Emperor—Pretensions of the Pope—Concordat of Worms—Papal Election—Papal Encroachments—Extent of Papal Power—Deposition and Excommunication—Temporal Dominions increased—General Power diminished—Resistance of France, England, and Germany—Viscissitudes in Italy—Residence at Avignon—Encroachments of Nobles—Parties and Resistance—Authority restored—Absolute Government established—Ancona, Bologna—Ferrara—Literary Flattery—Lessons from these writings—Frame of the Papal Government—Leading Peculiarities—Election of Pope—Ministers—Congregations—Etiquette—Suspicious Spirit—Cameras—Prefectures—Clerical Prefectures—Occasional Congregations—Spiritual Congregations—Delegations, Assessors, Councils—Governors—Consalvi and Pius VII.—Communes—Gonfaloniere, Anziani—Absolute Power—Number of Priests—Army—Revenue—Practical Checks—Vices of the System—Favouritism—Nepotism—Extravagance—Aristocratic Privileges—Sacrifice of Public Interests—Choice of Pope—Changes of Policy—Sale of Places—Financial System—General Reflections. . . . . p. 537

A List of the Popes, from 336 to 1831 p. 577

CHAPTER XVII.

ITALIAN MONARCHIES—(*Continued*).—SICILY AND NAPLES.

Provincial Government of the Goths—Of the Eastern Empire—Exarchs—Longinus—and Narses—The Lombards—Their origin and conquests—Lombard Government—Duchies—Ten years anarchy—Autharis, founder of the Monarchy—Duchy of Benevento—Pepin and Charlemagne—Revolutions of the duchy—The Normans—Their conquests—End of the Lombard Monarchy—Lombard Government—Feudal system modified—Gastaldi—Sculdasci—Lombard diets; legislation; church—Lombard code—Establishment of different Codes—Norman Monarchy; policy—Papal authority—Laws of Roger—Great Officers of the crown—Swabian Line—Laws of the Williams and Frederick I.—Anjou Line—Arragon Line—Viceregal Government—Reforms of Alphonso I.—Of Ferdinand I.—Imperfect Federal Union—Foreign influence—Parliament of Naples—Seggi—Councils; Chambers; Chancery; Courts—Delegations—Vicaria—Resistance; Masaniello—Parliament of Sicily—Writ of Summons—Proceedings—Privileges—Diputati di Regno—Feudal burdens—Spanish tyranny—Administration of justice—Constitution of 1806; of 1812—Restoration of 1815—Revolution and Parliament of 1820—Interference of the Holy Allies. p. 581

CHAPTER XVIII.

ITALIAN MONARCHIES—(*Continued*).—PETTY PRINCIPALITIES.

Tuscany—Government of Florence—Factions—*Medici Family; their rise; their* usurpation—Lorenzo's character; crimes—*Conduct of Historians—Alessandro;* change of Government—Recent Tuscan history—*Political inconsistency—Absolute* Governments—Leopold I.; *his merits; his reforms; his Code.*

Lucca—Castruccio Castracani—Burlamacchi—*Martini's law—Recent Luchese His*tory—Government.

Parma and Modena History—Government of Parma—Tyranny of Maria Louisa—Tyranny of Modena—Effects of Absolute Power—Evils of Petty Monarchy. p. 625*

CHAPTER XIX*.

ITALIAN MONARCHIES—(*concluded*). LOMBARDO-VENETIAN AND SARDINIAN KINGDOMS.

LOMBARDO-VENETIAN KINGDOM—Component parts—Lombard Cities—Diet of Roncaglia—Government of the Cities—Lombard League—Peace of Constance—Princes and absolute Government—Viscontis; Sforzas—Spanish tyranny; Viceregal Government—Austrian Administration—Constitution of 1815—Benefits of Constitutional Government.

SARDINIAN KINGDOM—Component parts—Rise of House of Savoy; its History—Government of Savoy; of Piedmont—States; their disuse—Senates—Emanuel Philibert's reforms—Absolute power of the Crown; Registration of Edicts—Codes—Judicial and Municipal Systems—Constitution of the Island—Early History—Early Constitution; Judges—Spanish Conquest—Sardinian Parliament; Stamenti; Corti—Feudal System; Nobility—Imperfect Federal Union—Evils of Viceregal Government—Administration; Courts; Councils; Edicts—Regent—Judicial System—Intendant—Supreme Council—Misgovernment and oppression; Jews; Waldenses; interference with Courts—Abuses of absolute Power; present King; Charles Emanuel III.; persecution of Giannone—Italian Monarchies—General Reflections. . . . . Page 649*

Tables of the Spanish monarchies, of the kings of Portugal, and of the kings of Denmark, Norway, and Sweden. . . . . p. 680*

CHAPTER XIX.

SPANISH AND PORTUGUESE MONARCHIES.

Early History of Spain—Visigoths—Saracens—The Conquest—Original Constitution—Origin of the Cortes—Numbers of Town Deputies—Different Branches or Estates—Difference of the Cortes in Arragon and Castile—Encroachments of the Crown—Restriction of the Right of Voting—Cortes of Portugal—Power of assembling the Cortes—Commission of Cortes in vacation—Power of the Cortes—Taxation—Authority exercised over the Crown—Legislative Power of the Cortes—Executive Power—Right of Resistance—Privilege of Union—Justizia—Benefits from Free Constitutions—Decline of the Cortes—Loss of Liberty—Portuguese Constitution—Causes of the decline of Constitutional Government—Practical Lessons to be derived from it. p. 609

CHAPTER XX.

DANISH AND SWEDISH MONARCHIES.

Scandinavian History—Early Danish Constitution—Union of Calmar—Encroachments of the Crown—Tyranny of Christian II.—Separation of Sweden—Aristocracy—Revolution of 1661—Act establishing despotism—Mild and wise reign of Frederick III.—Of his Successors—Queen Matilda's Reforms—Struensee and Brandt—Mob joins the Court to destroy the Reformers—Bernstoff's Reforms—Swedish Constitution—Aristocracy—Revolution of 1772—New Constitution—Gustavus III.—Further increase of Royal authority, 1776—Evils introduced by Despotism—Gustavus IV. dethroned—New Constitution, 1809. . p. 632

NOTICE RESPECTING THE POLITICAL SERIES.

THE two first volumes* of this series are now completed, containing the two first parts originally announced of POLITICAL PHILOSOPHY. These two parts comprise the general principles of Government, the peculiar principles of Monarchical Government, the history and structure of the different Monarchies of Asia and Europe.

The continuation of the series will embrace, *first*, on the same plan, the principles, history, and structure of the other kinds of Government, namely, Democracy, Aristocracy, and Mixed Monarchy; *secondly*, the Functions, as contradistinguished from the Structure, of Government, including the judicial, military, and financial systems, and the economic system or political economy. The Committee have under their consideration the expediency of taking the important subject of the British Constitution out of its place, under the head of Mixed Monarchy, and afterwards resuming the series according to the order formerly announced, and now again referred to. But the volumes now published are complete in themselves, finishing the subject of Pure or Unmixed Monarchy as well as that of the General Principles of Government.

* It is recommended to bind these twenty-one treatises in two volumes rather than one, and title-pages are given accordingly. The most convenient division of the volume is at Chapter xi, page 365.

PRELIMINARY DISCOURSE.

OBJECTS, PLEASURES, AND ADVANTAGES OF POLITICAL SCIENCE.

The Sciences which form the subject of our most useful study, and which, next to the cultivation of religion and the practice of virtue, are the source of our purest enjoyments in this world, may be divided into three great classes or branches, according to their several objects. Those objects are—the Relations of Abstract Ideas—the Properties of Matter—the Qualities of Mind. All the subjects of scientific research may be classed under one or other of these three heads; and all the sciences may, accordingly, be ranged under one or other branch of a corresponding threefold division.

To the first branch belong the abstract ideas of quantity—that is, of space in its different forms and portions; and of these the science of Geometry treats; the abstract ideas of number, which form the subject of Arithmetic, general or particular, the one called Algebra, the other Common Arithmetic, the comparison and classification of all ideas, generally, whether abstract or not, and whether relating to matter or mind; and this forms the subject of Logic, or the science of reasoning and classification.

The first branch deals with mere abstract ideas, and has no necessary reference to actual existences; these form the subjects of the other two, which, accordingly, do not, like the former, rest wholly upon reasoning, but depend upon experience also. The one branch relating to matter, its properties and motions, is termed Physics,* or Natural Philosophy; the other, relating to the nature and affections of the mind, is termed Metaphysics or Psychology,† or Moral or Mental Philosophy.

Physical or Natural Philosophy is subdivided into various branches: one, for example, treating of weight and motion, is called Dynamics, or Mechanics and Statics; another, treating of the heavenly bodies, is termed Astronomy; another, of light, is termed Optics; another, of the qualities and composition of substances, called Chemistry; another, of the properties of living bodies, called Anatomy and Physiology; another, of the classification of substances and animals, called Natural History. To all of these accurate observation and experiment may be applied, and to some of them mathematical principles, by which extraordinary progress has been made in extending our knowledge of the laws of nature.

* From the Greek word signifying natural objects or qualities.
† From the Greek word signifying to discourse of the soul or mind.

Moral, or Mental Philosophy, consists of two great subdivisions: one treating of the powers, faculties, and affections of the mind—that is, its intellectual as well as its moral or active powers—the faculties of the understanding and those of the will, or our appetites and feelings as well as our intellects—and this branch treats of all spiritual existences from the Great First Cause, the Creator and Preserver of the universe, to the mind of man and his habits, and down to the faculties and the instincts of the lower animals. This division is sometimes called Psychology, when that phrase is not used for the whole of moral science. The other subdivision treats of our duties towards the Deity and towards our fellow-creatures, and is generally termed Ethics.* But perhaps the better and more correct division of the whole of Moral Philosophy is to consider it in two points of view—as it treats of man in his individual capacity; and man as a member of society. This last branch is termed Political† Science, and forms the subject of the following Discourse.

We have already adverted to one important circumstance which distinguishes both the two branches of science which treat of actual existences from those which treat of abstract ideas and their relations. The truths of both Natural and Moral Philosophy differ from those of abstract science in this important particular, that they partly depend on experience and not exclusively on reasoning; they are contingent, and not necessary; the world, moral and material, might have been so constructed as to render untrue all things now known to be true respecting it; whereas the truths of abstract science, arithmetic for example, are independent of all contingencies, and do not result from any experience, and could not possibly have been different from what they are. It is easy to conceive a world in which bodies should attract each other by a wholly different law from that of gravitation; but we cannot form to ourselves the idea of any state of things in which two and two should not be equal to four, nor the three angles of a triangle equal to two right angles. It follows that, in the sciences both of matter and of mind, we must be content with evidence of an inferior kind to that which the mathematical sciences employ; and resting satisfied with as high a degree of probability as we can attain, must draw our practical conclusions with the hesitation which such a liability to error naturally prescribes.

The first, or abstract branch, is capable of application to the other two. The precision with which the qualities and the functions of matter are observable, and the ease with which these may be subjected to experiment, enable us to investigate them with great facility, and to draw our general conclusions with much certainty. But this power

* From the Greek for morals.

† From the Greek for city or state—the different communities in Greece having originally been cities and their adjoining territories.

is greatly increased by the use of mathematical principles, which enable us to deduce general inferences from observed facts, the truth of which facts being admitted, those inferences follow as absolute and necessary, and not as matter of contingent truth. Thus the observations of astronomers show certain appearances of the heavenly bodies; the observations of mechanicians show certain things respecting falling bodies on our globe. But suppose the truth of such observations to be admitted, mathematical reasoning shows, without the possibility of error or of doubt, that the power of gravitation extends to the heavens, and that the planets wheel round the sun as their centre by the same power which makes a stone fall to the ground if unsupported. This inference is a certain and necessary truth, if the facts be true which our observation teaches; and such a mixture of necessary with contingent truths, forms a very large portion of Physics, or Natural Philosophy. But it is only in a few cases that we can obtain the aid of mathematical reasoning to render our inferences certain and necessary from facts observed in the science of mind, as it is also comparatively few observations and experiments that we are enabled to make upon its qualities. Hence there is a far less degree of certainty in this than we can attain in the physical sciences, and hence we ought to be doubly on our guard against dogmatism and intolerance of other men's opinions in all the departments of this less exact philosophy. The controversies which have oftentimes arisen among metaphysicians, strongly illustrate how little the positive dogmatism and exclusive intolerance of men holding one class of opinions towards those who held another, was in proportion to the degree of evidence upon which their inquiries proceeded. Mathematicians who run hardly any risk of error—naturalists who run but little more—have never been so bigoted and so uncharitable as those whose speculations are fated to be always involved in more or less of doubt; and when we come to political reasoners, we find, beside the intolerance of metaphysicians, a new source of error and of fault in the excitement which the interests of men, real or supposed, lend to their passions.

It would, however, be an equally groundless, and a very pernicious error to run from the extreme of dogmatism into the extreme of scepticism, and to suppose that because the evidence upon which our conclusions in moral science rest is inferior to the proofs of mathematical, and even of physical truth, therefore we cannot trust the deductions of ethical principles, or their applications to the affairs of men as members of political communities. The more nice and subtle points of metaphysical philosophy are those upon which the chief doubts prevail. Some portions of psychology are placed above the reach of the human faculties, as indeed are some of the more intimate qualities of matter; and it is eminently improbable that we shall ever be able to ascertain the essential nature of mind; but so no more are we ever likely to

ascertain the ultimate cause of gravitation, or to penetrate into the laws which govern the primary combinations of material particles. Still, the more important, because the more practical, subjects of our inquiries into the nature of the human mind, the laws which govern man's habits as an individual, and the principles of human action upon which the structure of society and its movements depend, are not placed on such unapproachable heights. Within certain limits, safe conclusions can be drawn respecting these important matters. Facts may be observed, collected, and generalized, not, certainly, with the perfect accuracy which can be attained in the inductions of physical science, yet still with sufficient correctness to form the groundwork of safe practical inferences. General principles of Moral and Political Science may thus be established, by reasoning upon the results of experience; and from those principles, rules for our guidance may be drawn, highly useful both in the regulation of the individual understanding, and in managing the concerns of communities of men. To deny that Morals and Politics may be reduced to a science, because the truths of Natural Philosophy rest upon more clear evidence and assume a more precise form, would be as absurd as to deny that experimental science is deserving of the name, because its proofs are more feeble, and its propositions less definite and less closely connected together than those of pure mathematics.

But it is more especially with Political Philosophy that we have now to do; and there are many reasons why its truths should be better capable of clear demonstration and of distinct statement than those of the other branches of Moral or Ethical Science.

1. In the first place, although each individual by his consciousness is continually in a situation that enables him to make observations on the human faculties by attending to the operations of his own mind, yet we know that hardly any habit is later acquired by the few who ever learn it at all, than the habit of turning the observation inwards, and making the mind the subject of its own contemplations. It is a process, indeed, which not one person in a hundred thousand ever thinks of undertaking. But the bulk of mankind are political observers. The operations of government, the habits and proceedings of the people, the conduct of communities, their fortunes and their fate, form the daily subject of reflection with all persons even of an ordinary degree of intelligence in every civilised country, and do not escape the observation of the bulk of the people, even in communities subject to such restraints from the structure of their governments, as to render the open discussion of such matters hardly possible in any class of society. Hence the observation of facts on political subjects is performed almost universally at all times, whether these facts are collected and classified or not.

2. It follows, in the next place, that the appetite for knowledge of this

description is far more generally diffused than for either moral or ethical knowledge; that numberless bodies of men in every country conceive themselves interested in political subjects, who would regard metaphysical speculations as wholly foreign to their concerns; and that there prevails everywhere a strong desire for such information, unless in places when misgovernment may have actually reduced the minds of the community to a state bordering upon the dulness and insensibility of the brute creation.

3. Thirdly. The facts on which Political Science rests are more plain, manifest, and tangible, than those which form the subject of Moral Philosophy in its other branches. Those facts are more obvious; they are perceptible in most cases to the senses; they are reducible to number and measure. The accumulation or diminution of public wealth,—the prosperity or suffering of the people,—the progress of population,—the quiet or disturbed state of a country,—the prevalence of one portion or order of a state over the others,—the effects of a particular form of government,—the changes consequent upon its altered structure;—all these are matters of distinct observation, and most of them subject to exact calculation. But these, and such as these, are the facts upon which the doctrines of Political Science are grounded, and those doctrines are the results of reasoning upon such facts.

4. Fourthly. The mere facts themselves connected with political science are far more important and far more interesting than those on which the other branches of moral philosophy rest. The peculiar action of the intellectual faculties, or of the feelings and passions, is not a subject of great extent. All we know of it is soon told, and there is but little variety in different individuals as far as it is concerned. Different characters may be described, and the history of individuals affords great entertainment, as well as the matter of much interesting reflection; but unless their actions are also comprehended in the narrative, the interest flags, and the story can scarcely go on; and those actions almost always come within the province of Political Science. The intellectual or moral habits of men as individuals, apart from their conduct, form a small and not an extremely interesting chapter in the history of man. But how different are those facts with which the political observer is concerned! The mere history of national affairs—the narrative of those public events which take place—the changes in the condition and fortunes of whole communities—their relations with each other, whether in peace or war—the rise and decay of great institutions affecting the welfare of millions—the progress of a policy upon which the happiness, nay, the very existence of whole nations depends—the varieties in the governments under which they live—the influence of those Governments upon the condition of the people—the effects which they produce upon their intercourse with other countries,—all these are subjects of most interesting contemplation in themselves, as mere facts, wholly indepen-

dent of any general views to which they may lead, or of any practical conclusions which may be derived from them.

Mr. Hume has written an ingenious and a sound dissertation, to prove that Politics—meaning the branch which treats of the structure of governments—may be reduced to a science; and he illustrates this by deducing from Political History certain general principles which must at all times and in all circumstances hold true. But whether he be right or not, even if there were no means of drawing such strictly and universally true inferences, at least the importance of the facts which the political reasoner deals with must be confessed, and the great interest which attaches to the mere knowledge of those facts cannot be doubted.

5. Lastly. We may observe that, the facts in question being of a public nature, and so known to the world at large, a better security is afforded for their being accurately observed and truly recorded. History, statistics, the narrative of public events, the details of national affairs,—these are the sources from which the political reasoner draws his facts. Established institutions, bodies of law, universally known customs, wars, treaties, the manifest state of the world in its various regions at different times,—these are the facts upon which the political philosopher reasons, which he generalises, from which he draws his conclusions, on which he builds his systems. But we shall be the better able to appreciate the peculiar excellence of this study if we now take a survey of the science itself, and thus present, as it were, a map of it to the eye, with the natural limits and boundaries of the various provinces into which it is divided.

The great family of mankind dispersed over the earth occupy its various portions in various bodies or communities, each bound together by certain ties, and bearing in those portions a general resemblance to, or having distinctive features in which they differ from, the rest. These communities differ in their customs, character, and institutions; in their general circumstances and degree of civilization. The nature of their institutions,—of the various establishments for public purposes which exist for the management of their common affairs,—of the regimen under which and the rules by which the members of each community, whether compelled by force, or agreeing voluntarily, continue to live;—in a word, the Domestic Management of each state—forms the subject of the first great branch or province of Political Science. The second relates to the intercourse of different communities with each other; the mutual relations of the different communities; the principles or rules established for their demeanour towards one another;—in a word, the external affairs of each state, but the national concerns of the whole considered as one general community, the members of which are not individuals but separate states. The former province is called Domestic Policy—the latter, Foreign or International Policy.

Domestic Policy is subdivided into two branches.

Each community must be subject to some kind of rule, or regimen, or government; some force established for restraining the excesses of individuals, for preventing wrongs and creating and protecting rights, and for superintending those things which are necessary to the public security and conducive to the public benefit, but which, if left to individuals, never could be accomplished at all, and finally, for representing the community in its intercourse with other states. The nature of this rule or government differs in different countries from the accidents of events, and from the peculiarities of natural situation and of national character. The different forms of government,—the distribution in each state of the power by which its people are ruled,—the arrangements which result from these diversities,—their influence upon the security, improvement, comfort, and happiness of the people in each—are the facts from which the principles must be drawn which constitute the Science of Government.

This science, then, forming the first great subdivision of Domestic and National Polity, treats of two important matters,—first, the Principles relating to the establishment of all Government generally, and on which the establishment of the social relation, the formation of any connexion between the ruler and the people, depends; and, secondly, the principles relating to the distribution of power in different states,—in other words, the different Constitutions or Forms of Government in different countries.

But there is another great subdivision of Domestic Polity, not inferior in importance to the former, and, although intimately connected with it, yet easily distinguishable from it. The manner in which men manage their private concerns,—the course they pursue in their dealings with each other,—their way of exerting their industry for their subsistence, or comfort, or indulgence,—these proceedings may take place independent of the form of government under which they live; and, indeed, as no ruler has anything to do with them, if each government did its duty, these proceedings would go on nearly in the same way under all governments, and only be affected incidentally by the difference in the form of each. Although, therefore, the interference of governments directly, and their influence indirectly, may affect men's conduct of their own affairs, still the principles which regulate that conduct, and the effects resulting from it, form a subject of consideration evidently distinguishable from that of government. This subject, then, relates to the wealth, the population, the education, of the people; and the conduct of the government, in respect to these particulars, forms an important part of the discussion. This branch of the subject is termed Economics, or Political Economy, because it relates to the management of a nation's domestic affairs as private economy does to the affairs of a family. The most important subject of Political Economy is the accu-

mulation and distribution of wealth in all its branches, including foreign and colonial as well as domestic commerce. But it also treats of the principles which regulate the maintenance, increase, or diminution of population,—the religious and civil education of the people,—the provisions necessary for securing the due administration of justice, civil and criminal, and, as subservient to these, the maintenance of police—the measures required for supporting the public expenditure or the financial system—the precautions necessary for the public defence or the military system—and generally all institutions, whether supported by private exertions or by the state, the objects of which are of a public nature.*

Intimately connected with Political Economy, and, indeed, running as it were through all its subdivisions, is Political Arithmetic, or the application of figures to the various subjects of which Political Economy treats,—as the details of public wealth, commerce, education, finance, population, civil and military establishments, all of which may be made more or less the subject of calculation from given facts. Statistics, or the record of all the facts relating to the actual situation of different countries, in these several respects, is, properly speaking, a branch of Political Arithmetic.

The function of making those laws which are required from time to time for the government of a community, is vested in the supreme power of the State; and the important office of Legislation, accordingly, is variously performed in different countries according to the different constitutions of each. In all States a great portion of the law is derived from custom, handed down by tradition and acted upon in practice, through a succession of ages. This is called Common or Unwritten Law, as contradistinguished from Statute or Written Law; and though some nations have from time to time reduced to writing the provisions of the Common Law, thus furnishing themselves with Codes which comprehended all their laws, yet in all Systems of Law the distinctions between the two species may be traced: and even where a Code exists, it is known what portions of it were once Customary or Common Law, because the other, or Statutory enactments, are known to have been first introduced at a particular time, whereas the Common Law had been used before it was reduced into writing. The different laws of each State range themselves under the various heads to which they belong, those heads being the different subdivisions of the two great branches of Domestic Policy—the Political and Economical—already referred to. But there are certain general principles of Legislation which are of universal application, just as there are certain principles

* These subjects may be separated from Political Economy and treated under the head of Functions of Government; they come under what the French call *le Droit Administratif.*

relating to Government, and certain principles relating to Economics, which are general, and do not depend upon the particular institutions established, or the particular systems adopted in different countries. The science of Jurisprudence treats of those general principles, and may be reckoned an appendix, but a most important one, to the branch of Domestic Policy.

The other main branch of Political Science considers nations as individuals forming a portion of a larger community—a community of nations; and treats of the principles which ought to govern them in their mutual intercourse. Those views which form the foundation of this science of Foreign or International Policy, are evidently, from their nature, a refinement introduced in a late period of society, because those views assume that communities, each of which is supreme and can have no superior on earth, are willing to regard themselves as subject to certain rules in their intercourse with other nations,—rules which no common chief can enforce, but the observance of which is rendered expedient by the interests of all, and which, therefore, are generally regarded as binding.

These rules are either those of sound policy or those of strict justice. The former class presents certain maxims as useful in regulating the conduct of nations towards each other, in order to provide for the general security, by preventing any one from becoming too powerful, and thus dangerous to the independence of the others. The latter class acknowledges certain rights as belonging to each community, and denounces the infraction of these rights as a public wrong, giving the injured party a title to seek redress by force. Thus this Second Branch of political science consists of two subdivisions,—the one treats of the principles of *policy* which should guide nations in their mutual intercourse of peace and war, in the negotiation of treaties, the formation of alliances offensive and defensive, the combination of weak States to resist a stronger one, the precautions necessary for preventing too great acquisition of strength by any one State to the derangement of what is termed the general Balance of Power. These principles form the subject of Foreign Policy. The other subdivision treats of the *rights* of nations,—those rights in peace and war which are by common consent admitted to belong to each, because the common interests of humanity, the prevention of war, and the mitigation of its evils when it does occur, require some such general understanding and consent; and the rules relating to this second subdivision are called the Law of Nations or International Law—of which the true description is, that it forms the code by which the great community of nations are governed, or ought to be governed, in their conduct towards each other, as Municipal Law is the code by which the individual members of any particular community are governed in their intercourse with one another. It is a very common error to confound with this branch of law many of the general

principles of jurisprudence applicable to all nations, and to term these a portion of the Law of Nations.*

It is obvious that of all sciences which form the subject of human study, none is calculated to afford greater pleasure, and few so great to the student, as the important one of which we have just been describing the nature and the subdivisions. In common with the different branches of Natural Philosophy, it possesses all the interest derived from the contemplation of important truths, the first and the purest of the pleasures derived from any department of science. There is a positive pleasure in that exercise of the mental faculties which the investigation of mathematical and physical truth affords. The contemplation of mathematical and physical truths is, in itself, always pleasing and wholesome to the mind. There is a real pleasure in tracing the relations between figures and between substances, the resemblances unexpectedly found to exist among those which seem to differ, the precise differences found to exist between one figure and another, or one body and another. Thus, to find that the sum of the angles of all triangles, be their size or their form what it may, is uniformly the same, or that all circles, from the sun down to a watch dial, are to each other in one fixed proportion, as the squares of their diameters, is a matter of pleasing contemplation which we are glad to learn and to remember from the very constitution of our minds. So there is a great, even an exquisite pleasure in learning the composition of bodies, in knowing, for instance, that water, once believed to be a simple element, is composed of the more considerable of two substances, which makes, when united with heat in a certain form, the air we burn and the air we breathe; that rust is the combination of this last substance with metals; that flame is supported by it; that respiration is performed by means of it; that rusting, breathing, and burning, are all processes of the same kind; that two of the alkaline salts are themselves rusts of metals, one of these metals being lighter than water, burning spontaneously when exposed to the air, without any heat, and forming the salt by its combination. To know these things, and to contemplate such relations between bodies or operations seemingly so unlike, is in a high degree delightful, even if no practical use could be made of such knowledge. So the sublime truths of astronomy afford extensive gratification to the student. To find that the planets and the comets which wheel round the sun with a swiftness immensely greater than that of a cannon ball, are retained in their vast orbits by the same power which causes a stone to fall to the ground; that this power, with their various motions, moulds those bodies into the forms they have assumed; that their motions and the

* In the following series the subject of Jurisprudence and International Law will be only treated incidentally, as the other matters to which they relate require, and not under separate heads. The same may be said of the other division of the second branch, namely, Foreign Policy, a conduct prescribed to nations by their mutual interests in their mutual intercourse.

arrangement of their paths cause their mutual action to operate in such a manner, as to make their course constantly vary, but also to prevent them from ever deviating beyond a certain point, and that the deviation being governed by fixed rules, never can exceed in any direction a certain amount, so as to preserve the perpetual duration of the system;—such truths as these transport the mind with amazement, and fill it with a pure and unwearying delight. This is the first and most legitimate pleasure of philosophy. As much and the like pleasure is afforded by contemplating the truths of Moral Science. To trace the connexion of the mental faculties with each other; to mark how they are strengthened or enfeebled; to observe their variety or resemblance in different individuals; to ascertain their influence on the bodily functions, and the influence of the body upon them; to compare the human with the brute mind; to pursue the various forms of animal instinct; to examine the limits of instinct and reason in all tribes;—these are the sources of as pleasing contemplation as any which the truths of abstract or of physical science can bestow; from these contemplations we reap a gratification unalloyed with any pain, and removed far above all risk of the satiety and disgust to which the grosser indulgences of sense are subject. But the study of Political Science is equally fertile in the materials of pleasing contemplation. The examination of those principles which bind men together in communities, and enable them to exercise their whole mental powers in the most effectual and worthy manner; the knowledge of the means by which their happiness can be best secured and their virtues most promoted; the examination of the various forms in which the social system is found to exist; the tracing all the modifications which the general principles of ethics and of polity undergo in every variety of circumstances, both physical and moral; the discovery of resemblances in cases where nothing but contrasts might be expected; the observation of the effects produced by the diversities of political systems; the following of schemes of polity from their most rude beginnings to their greatest perfection, and pursuing the gradual development of some master-principle through all the stages of its progress—these are studies which would interest a rational being, even if he could never draw from them any practical inference for the government of his own conduct, or the improvement of the society he belonged to—nay, even if he belonged to another species and was merely surveying the history and the state of human society as a curious observer, in like manner as we study the works of the bee, the beaver, and the ant. How prodigiously does the interest of such contemplations rise when it is the political habits of our own species that we are examining, and when, beside the sympathy naturally felt in the fortunes of our fellow creatures of other countries, at every step of our inquiry we enjoy the satisfaction of comparing their institutions with our own, of marking how far they depart from the same model, and of tracing the consequences of the

variety upon the happiness of millions of beings like ourselves! How analogous is this gratification to the kindred pleasure derived from Comparative Anatomy, which enables us to mark the resemblances and the differences in structure and in functions between the frame of other animals and our own!

From the contemplation of political truth our minds rise naturally, and by a process also of legitimate reasoning like that which discovers those truths, towards the great Creator of the universe, the Source of all that we have been surveying by the light of science—the Almighty Being who made the heavens and the earth, and sustains the frame of the world by the word of His power. But He also created the mind of man, bestowed upon him a thinking, a reasoning, and a feeling nature, placed him in a universe of wonders, endowed him with faculties to comprehend them, and to rise by his meditation to a knowledge of their Great First Cause. The Moral world, then, affords additional evidence of the creating and preserving power, and its contemplations also raise the mind to a communion with its Maker. Shall any doubt be entertained that the like pleasing and useful consequences result from a study of Man in his political capacity, and a contemplation of the structure and functions of the Political world? The nice adaptation of our species for the social state; the increase of our powers, as well as the multiplication of our comforts and our enjoyments, by union of purpose and action; the subserviency of the laws governing the nature and motions of the material world to the uses of man in his social state; the tendency of his mental faculties and moral feelings to further the progress of social improvement; the predisposition of political combinations, even in unfavourable circumstances, to produce good, and the inherent powers by which evil is avoided, compensated, or repaired; the singular laws, partly physical and partly moral, by which the numbers of mankind are maintained, and the balance of the sexes preserved with unerring certainty;—these form only a portion of the marvels to which the eyes of the political observer are pointed, and by which his attention is arrested; for there is hardly any one political arrangement which by its structure and functions does not shed a light on the capacities of human nature, and illustrate the power and the wonders of the Providence to which man looks as his Maker and Preserver. Such contemplations, connected with all the branches of science, and only neglected by the superficial or the perverted, are at once the reward of philosophic labour, the source of true devotion, the guide of wise and virtuous conduct: they are the true end of all our knowledge, and they give to each portion of it a double value, and a higher relish.

The last—but in the view of many, probably most men, the most important—advantage derived from the sciences is their practical adaptation to the uses of life. It is not correct—it is the very reverse of the truth—to represent this as the only real, and, as it were, tangible

profit derived from scientific discoveries or philosophical pursuits in general. There cannot be a greater oversight or greater confusion of ideas than that in which such a notion has its origin. It is nearly akin to the fallacy which represents profitable or productive labour as only that kind of labour by which some substantial or material thing is produced or fashioned. The labour which of all others most benefits a community, the superior order of labour which governs, defends, and improves a state, is by this fallacy excluded from the title of productive, merely because, instead of bestowing additional value on one mass or parcel of a nation's capital, it gives additional value to the whole of its property, and gives it that quality of security without which all other value would be worthless. So they who deny the importance of mere scientific contemplation, and exclude from the uses of science the pure and real pleasure of discovering, and of learning, and of surveying its truths, forget how many of the enjoyments derived from what are called the practical applications of the sciences, resolve themselves into gratifications of a merely contemplative kind. Thus, the steam-engine is confessed to be the most useful application of machinery and of chemistry to the arts. Would it not be so if steam-navigation were its only result, and if no one used a steam-boat but for excursions of curiosity or of amusement? Would it not be so if steam-engines had never been used but in the fine arts? So a microscope is a useful practical application of optical science as well as a telescope—and a telescope would be so, although it were only used in examining distant views for our amusement, or in showing us the real figures of the planets, and were of no use in navigation, or in war. The mere pleasure, then, of tracing relations, and of contemplating general laws in the material, the moral, and the political world, is the direct and legitimate value of science; and all scientific truths are important for this reason, whether they ever lend any aid to the common arts of life or no. In like manner the mental gratification afforded by the scientific contemplations of Natural Religion are of great value, independent of their much higher virtue in mending the heart and improving the life,—towards which important object, indeed, all the contemplations of science more or less directly tend,—and in this higher sense all the pleasures of science are justly considered as Practical Uses.

But the applications to the common affairs of life, which generally go by that name, are also of great value. The Physical Sciences are profusely rich in these. The speculations of the Moralist are also of great value in teaching us the discipline of the understanding in improving the feelings, and in cultivating virtuous sentiments; they are of still greater service in helping those concerned about the government of men. But the study of Political Philosophy is certainly, of all others, the most fruitful in beneficial results of what is usually called a practical

kind. If almost proverbially "the proper study of mankind is man," the most important application of the doctrines which moral science teaches respecting his nature is unquestionably that whereby we learn his position, habits, interests, rights, and duties as the member of a civil community. The science which treats of the structure of government, which makes the experience of one age or nation benefit another, and save it the price, and inconvenience, and delay of failure, pointing out the errors committed in various systems of civil or commercial polity, showing how these are to be corrected or shunned, and showing how such systems may most effectually and most safely be improved so as to secure the happiness of the people—the science which expounds the best modes of legislation, the true principles of jurisprudence, the more efficacious manner of executing, as well as of making laws—which defines the rights of the people and their duties, as well as those of their rulers, explains the rights of one nation with respect to another, and shows both the duty and the wisdom of combining order with freedom at home, and independence with peace abroad:—surely this science, if it be not, of all others, the most useful to every state, nay, to every individual citizen at every period, at least yields to none in real practical importance. The benefits which it helps us to obtain, the errors which it leads us to correct, the dangers which it enables us to avoid, are the most important, because those benefits, and errors, and dangers affect the whole affairs of nations, and nearly concern every individual member of the community directly or indirectly. Nothing can be more plain than this proposition; but incidentally it will derive additional illustration when we now proceed to consider the objections which have been sometimes raised against teaching it. To take only one illustration at present—how nearly does the advantage resulting from the examination of foreign constitutions resemble the benefits derived to human Physiology from studying the anatomy of the lower animals! This branch of Political Science may be justly termed the Comparative Anatomy of Government; and if studied with a constant regard to general principles of policy, their illustration from the structure and functions of various systems of polity, and the modification they undergo by the diversities of each, this science is calculated to throw useful light on the general subject of Political Philosophy, and lend us valuable improvement to the knowledge of our own system, exactly as the Comparative Anatomy of the Body extends our knowledge of Physiology, and improves our acquaintance with the human frame.

No one has ever, in any free state, hardly in any civilised country, denied the advantages of Political Science, or objected to its being learnt by certain classes; nothing so absurd was ever yet attempted. But an opinion at one time prevailed, and it still has some adherents, that political subjects are not fit for discussion among the great body of the

people, and that, therefore, many who do not deny the propriety of instructing them in other branches of knowledge, have objected to their being taught the doctrines of Political Philosophy. The rich and the powerful might study such matters; the rulers and the lawgivers of the country, or the upper classes of the community, might learn them, and treatises might be written for, or lectures delivered to, them and their children, or addressed to other select circles, upon the great subjects of National Polity: but the people were to care for none of these things,—they might read a newspaper or attend an election meeting; but political knowledge was a thing above their reach and out of their line,—a thing for their betters, and with which it was both useless and perilous for the working classes to meddle. The time is certainly past and gone, never to return, when such preposterous doctrines could find any general acceptance in this country or in France; though in other parts of Europe they still are found to pass current. Yet even in France, Germany, and England herself, a modification of the same fallacy is to be traced as influencing the judgments of many respectable men, even of some whose general opinions are not bigoted or illiberal: it leads to the entertaining a strong prejudice against the diffusion of political knowledge, to a wish that the people at large could be cured of their taste for it, and to an alarm at the dangers likely to result from it to the peace and good order of society. It becomes a duty, therefore, to examine a little more closely this objection, and to see whether it really has any force. Let us begin by stating the argument used by the objectors; but, first of all, let us observe that the main objection is to Politics, as contradistinguished from Political Economy; that is, to the first subdivision of the great branch of Domestic Policy. Of its other subdivisions, Economic Science, and of the second branch, International Policy, the objectors are more careless, and some would rather have the former of these—Political Economy—taught, provided Politics, commonly so called,—that is, the principles, and structure, and functions of government, were exempt from the public scrutiny, and withdrawn from the province of the popular teacher.

The argument of the objectors is this,—No human institution is or can be perfect: and the governments established in all the countries of Europe having their origin in early and unenlightened times, necessarily partake more or less largely of the imperfection incident to the works of man. They present, therefore, many points of objection to those who live in a more refined period of society; nor is it possible to deny that many things would be avoided as absurd or pernicious in the present times, if we had now to frame, for the first time, our political institutions. It thus becomes impossible to examine either our own or other systems of government without pointing out many faults in them; nor can the

sound principles of civil polity be unfolded without leading to inferences disparaging to the system we live under. Nay, it would be impossible, and, if it were possible, it would be dishonest to shun the reference to existing circumstances and the established order of things in explaining the fundamental principles of sound policy, against which the institutions of the state are found clearly to sin. Hence it is argued, that the people, being thus taught, are rendered discontented with their government, and excited to a desire of change.

1. We may begin by observing that much of the real force of this objection is presented against a factious, unfair, exaggerated discussion of political subjects, undertaken in the disguise of a fair and honest course of instruction. That treatises, and still more, lectures to the people may have a pernicious effect if the teacher abuses his office, and makes himself a partisan or a demagogue, is not denied. But it by no means follows that the science of government may not safely be taught. For, after all, it is a practical, an experimental science. If there be no real mischiefs occasioned by any alleged defects in any given system of polity,—if the evils charged upon it are merely speculative and almost nominal,—if the people do not feel any inconvenience from them,—if they produce no consequences which are generally seen, and by all who observe them, freely admitted,—nay, if the evils be not actually felt as well as remarked and confessed,—we may be well assured that the allegation of the defects existing will be received as groundless, because, practically speaking, the arrangement called in question is not defective. No argument in a speech, no exhortation in a treatise or a lecture, can make men think they are oppressed, or ill governed, or suffering in any way, when they are in reality free and happy; or can succeed to a considerable extent in persuading the audience or the disciples that they are uncomfortably circumstanced, and ought to be discontented, when they know and feel that they are living at their ease and ought to be satisfied.

2. But suppose the defects to exist, and that the people suffer under them, it is fit and proper that the causes of the evil should be probed, and should be pointed out without any reserve. It is certain that the not doing so will never prevent the people from feeling discontented; on the contrary, if they are left to feel the pressure, and do not know distinctly from whence it proceeds, both their discontent is likely to be increased beyond its just amount, and it is likely to take a wrong direction. The lessons taught by honest and skilful instructors will both reduce the complaint within the bounds of moderation, and prevent blame from being imputed to harmless measures, inoffending men, and unexceptionable institutions. If any illustration were wanting of the dangers to which the peace as well as the general prosperity of a country may be exposed from popular ignorance, we might instance the dis-

turbances so often arising in all parts of the world from the popular indignation against the exporters of corn during a scarcity, or the use of machinery in times of manufacturing distress. But ignorance of the nature of government may produce the like mischiefs.

The necessity of some considerable degree of restraint to the well-being of society—the impossibility of the supreme power being left in the hands of the whole people—the fatal effects of disregarding the right of property, the great corner-stone of all civil society—the interest which all classes down to the humblest have in the protection afforded by law to the accumulation of capital—the evils of resistance to established government unless in extreme and therefore very rare cases—the particular interest which the whole people, low as well as high, must ever have in general obedience to the supreme power in the state—the almost uniform necessity of making all changes, even the most salutary, in any established institution, gradually and temperately—all these are the very first lessons which every political teacher must inculcate if he be fit for his office, and commonly honest; and he cannot move many steps in any direction through his subject, without finding occasion to illustrate and to enforce these fundamental lessons by the constant experience of mankind. But what are these lessons? They are the very doctrines of good order and of peaceful conduct; they are the most powerful incentives to submission—a submission the more to be relied on, because it is rational, and results from an appeal to men's reason, not from an overruling force—the well considered submission of well-informed and therefore well-disposed men, not the blind obedience of ignorant slaves. Let the body of the people be kept ever so much in the dark upon the nature of government and the state of their own concerns, the existence of evils being admitted, the smarting under them will come without any teaching; but the more they learn the better they will be able quietly to bear them. Let the people be ever so ignorant, the sense of their own exclusion from a power which they see their superiors exercise, one of the hardest things to bear—the comparison of the poor man's lot with that of his wealthy neighbour, the very hardest portion of their lot, and that which must ever expose society to its greatest perils—will be always sure to strike their minds; and unless they are curbed by an overwhelming force, can never operate without the most mischievous tendency to the peace of society, until the foundations of government and the nature of the social compact, as well as the principles of Economical Science, are fully learnt by the mass of the people. There wants no teacher to make a poor man begrudge his powerful and wealthy neighbour both his actual share in the government and his disproportionate share in the good things of this life; but the teacher must have ill performed his task if he has left any doubt in the mind of the poorest man who hears or who reads him, that the misery of all classes must follow from insurrection and anarchy; that unequal distribution of power is

necessary for all government, and unequal distribution of property essential to its very existence, the idea of too much and too little being utterly inconsistent with its very nature; that upon its existence depends the whole fabric of society; and that a general division of possessions would make the country a scene of profligate extravagance for one year, and of universal desolation the next—a bedlam for one short season, and a charnel-house ever after.

3. The contemplation of the structure of other governments as well as of that under which we live, and the comparison of the defects and advantages of our own with those of other systems, can hardly fail to produce a happy effect upon the dispositions of any people in tolerably happy circumstances. Our countrymen, for example, when they perceive the immeasurable superiority of the British over so many other forms of government, cannot avoid drawing from the comparison, powerful motives for contentment, and strong reasons why they should bear with subordinate evils rather than run the risk of losing a great good. All foreign experience, too, and all past history, inculcates the necessity of sober and cautious proceeding, where admitted evils are to be removed, or valuable improvements to be introduced. Nor can it escape observation, that many of those things which the superficial and ignorant are prone to regard as improvements, are easily shown, by a deeper examination of the subject, to be either useless or hurtful. Hence untaught men often long after some foreign institution about which they know little; whereas a full and systematic acquaintance with the subject would show them that the different habits and various circumstances of the foreign nation, in other particulars, render the thing in question beneficial there, which here would be noxious.

4. It would be endless to show in how many particulars a people would be more easily and safely governed, if political knowledge were fully and widely diffused among them. The first instances that occur are drawn from the evil influence of ignorance and prevailing errors upon subjects of Economical Science. The great mischief arising from the labouring part of the community being unacquainted with the nature of *wages*, and the principles on which their rate depends, are well known. The unlimited supply of labour which their imprudent marriages, and repugnance to change their residence or their occupation, are constantly bringing into the market, really is the main cause of the depression of the working classes; for it keeps down their earnings to the very lowest amount of subsistence on which human life can be maintained. Could anything be more happy, both for themselves and for the peace of society, than such a thorough knowledge of this subject as would check the master evil which now pervades all the lower ranks of society?—In like manner, the outcry raised in favour of unlimited provision for the poor, and against the reasonable, indeed the necessary rule which would confine each man to living upon the produce of his

own industry, or the income of his own property, never could arise, at least never could have any success, but among the most ignorant of mankind.—So, the strange delusions propagated by some wild visionaries, and by some ill-disposed men, that labour alone gives a right to enjoyment, and that the existence of accumulated capital is a grievance and an abuse, could not have the least success with men who had been taught to reflect that the accumulation of capital is the necessary consequence of the existence of property and its secure possession, and that no classes have a stronger interest in the protection of capital than the labourers whom it must necessarily always be employed in supporting. —The rage against machinery; the objections to a free export of grain; nay, the exaggerated views of even just and true doctrines, as that which condemns the corn laws; afford additional illustrations of the mischiefs which ignorance of economical science is calculated to produce.— To take one more example, but a very striking one,—the popular prejudice against usury, and the notion that limiting the rate of interest protects distressed borrowers, prevented any attempt to amend the law in that important particular for many years after Mr. Bentham had demonstrated that the distressed borrower suffers far more under this pressure than the wealthy lender, and after the first mercantile authority in the world* had pronounced Mr. Bentham's "Defence of Usury" unanswered, because unanswerable. Nor have the higher classes yet thrown off these prejudices so far as to remove altogether one of the greatest practical defects in our commercial jurisprudence.

But the teaching of other branches of Political Science is equally beneficial to the cause of good government. It may safely be affirmed that no outcry against any impost required for the public service ever could be raised among a people well informed on the necessity of maintaining the establishments required for the public service; and that such schemes as the Excise never could for years have been defeated, and afterwards made for half a century the object of popular hatred, sometimes the ground of insurrection, in a well-informed community.—So the vulgar prepossession in favour of law-taxes, as tending to check litigiousness, could only, among a very ill-informed people have supported, till a late period, an impost notoriously the very worst that ever was invented, and the direct tendency of which is to prevent justice from being obtained by the poor man. —The cry of sacred chartered rights being violated by a reform in a monopolising company's administration of India, drove a ministry from power threescore-years ago; and assuredly it never could have seduced any but a very ignorant people. Accordingly, there was just as much violence done to the Company's charter, the year after, by the successors of that ministry, without any kind of umbrage being given

* The late Sir Francis Baring.

to the most sensitive persons in the country.—The classes of society were among the most ignorant of mankind, which about the same time were seized with such an alarm lest Popery should be made, by main force, the religion of the people, that they attempted to fire London, did burn the Catholic chapels in Edinburgh, and drove into retirement the most accomplished member of the Scottish Church,—the illustrious historian whose works shed a lustre on the name of his country.* Nor were those better informed who, thirty years later, helped a party in the state to remove their adversaries from the government, and seize upon their places, upon the outcry of a like danger threatening the religion of the country in consequence of a very insignificant bill, which its adversaries passed into a law a few years afterwards without one word being ever whispered against it.—But let us consider only how many measures every government is compelled to postpone, contrary to its fixed and clear opinions, merely because the public mind will not bear them in its present state of information. Men may differ, for example, as to the propriety of retaining certain colonial possessions at a vast expense, with great loss to our trade, and with considerable risk of hostile operations becoming necessary. But even if all statesmen of any note were agreed that those distant possessions should be abandoned, what minister would venture to give up the country where Wolfe gained his victory and met his end,—an event that has consecrated the spot in the affections of the people, and makes them blind to all consequences and deaf to all reason?—So it might be of great benefit to give up Gibraltar; but the people must have learnt many a lesson of political wisdom before it would be safe for any administration to propose its cession, how ample soever might be the benefits of the measure. Lord Chatham was as bold a minister, and one as regardless of consequences where he saw his course clear before him, as ever presided over the affairs of this country;—yet, when in order to gain the invaluable co-operation of the Spanish branch of the Bourbons, and rescue Europe from the depression consequent upon its disjointed state, he perceived the expediency of offering up Gibraltar for Minorca, a letter from him to our ambassador at Madrid remains, in which he broaches the subject with a degree of fear and trembling that indicates how frightful he deemed the risk he ran of exciting the national feelings of England against him to overwhelm his government. Such alarms could have no place among a people, the bulk of whom, well informed upon political subjects, were accustomed to consult the real interests of the country, and incapable of being led astray either by vague apprehensions, or the clamours which designing knaves might raise to delude them.—But of the many evils which popular ignorance creates in human society, there is none so pernicious as its influence upon those national

* Robertson.

feelings in which commercial restraints, and, above all, wars have their origin. The fear of benefiting other nations, and aiding our competitors by our trade, is at the bottom of the former; the latter are too frequently occasioned by national animosities, by hatred of our neighbours merely because they are our neighbours; and it may be remarked that both commercial and political jealousies chiefly operate against those who, for the very reason that they are our near neighbours, are our best customers, and should, for the benefit of both parties, be our firmest friends. The history of our species is a history of the evils that have flowed from a source as tainted as it is abundant. To go no further back than a century ago, — Walpole was first hurried into a war which its chief supporters afterwards admitted* to have been as groundless as it was impolitic, by a senseless cry against the Spaniards, raised by a few smugglers, who took advantage of our people's ignorance to excite their feelings of honour and revenge, and profligately encouraged by a political party who turned to their own personal advantage the greatest injury they could inflict upon their country.—The most unfortunate and impolitic war ever waged by this country was popular in the extreme at first; and no minister could have stood up against the supremacy of the mother-country over thirteen colonies, while all the ignorant members of the community believed that they had an interest in levying taxes by force from the American colonies in aid of the mother-country.—Nor is it any diminution of the evils which are produced by want of political knowledge, that wars, in themselves just and necessary, may at first be favoured by the people, and then abandoned at a time when the best interests of the state require them to be persevered in. An unreflecting, because an uninformed, nation is at all times liable to commit this error, than which none can be greater excepting that most grievous of all faults, the rushing into a contest without cause.

5. It may be said that there is this peculiar to a course of political instruction, that many of the principles explained in it are those which the existing parties in the state are at the time appealing to, and disputing about,—many of the illustrations used in expounding those principles are the very topics of most vehement discussion among the practical statesmen and factions of the day. The whole subject, it may be argued, is more or less controversial, and the controversy is one in which, as it involves men's real or supposed interests, and consequently engages their passions deeply, no instructor can easily avoid taking a side, and no audience can help being swayed by the prevailing sentiments of the times; so that instruction becomes difficult, from the interference of party prejudice in both the teacher and the pupil, while

* Mr. Burke relates this striking instance of the crimes of party: to turn out Walpole, his adversaries raised the war-whoop; they broke the peace of twenty years to obtain power. This those party-leaders admitted to him in discussing that disgraceful passage of party history.

a factious spirit is sure to be fostered, and unkindly feelings to be exacerbated, if not engendered. In this remark there is, unquestionably, much truth; it refers to the principal difficulty that attends political instruction. But it can never be allowed to prove that no such instruction should be conveyed; it only warns us to guard as much as possible against falling into the errors which it points out. If it were suffered to operate as a conclusive reason against teaching politics, this would follow—that upon the things most necessary to be known, ignorance is better than knowledge,—that in proportion as the subject is more interesting to men, they should take the less pains to understand it. But that is not all: it would also follow that, upon topics calculated to excite strong feelings, it is better and safer for the people to be kept in the dark. For by the supposition which forms the ground of the whole objection, you cannot keep the people from taking an interest in these subjects; you cannot help their being excited and split into parties; their being so is the very origin of the remark with which we are dealing. Then, because such excitement and such party differences prevail, is there any common sense in prescribing an entire ignorance of the questions those dissensions relate to, as a likely means of allaying them? Are political differences the more sure to be reconciled by keeping those who are split by them in ignorance of the subjects under dispute? Are men more likely to agree upon any matter the less they know about it? The people, it seems, feel strongly upon certain subjects, and are much divided in opinion, many being for a certain course of policy, many against it. The argument is, that for the purpose of bringing about an understanding, and making all in its favour, or all join in rejecting it, or all unite in preferring some middle course safely placed at a distance from either extreme, the parties should be prevented from comprehending the nature of the measure in question, and kept in ignorance of all the arguments for it, all the arguments against it, and all the arguments for a middle course. Once upon a time, says the old fable, two gallant knights met upon a plain where a shield stood upright; and one of them having called it a white shield, the other asserted it to be black, whereupon they prepared to fight after the manner of that age, still somewhat in vogue at the present day. But a dervise or priest came up, and, having learnt the cause of their quarrel, suggested that each had better look at both sides of the buckler—when they found that each knight was right—the one side being pure white, the other jet black. The minister of peace performed his duty wisely; but our objectors, and some of them nominally of the same vocation with the dervise, have no better expedient to propose than that the shield should be covered up from both combatants, and the fight go on.

It must on all hands be admitted that there is no greater evil in any country than party violence—the abuse of that which, if kept within due bounds, is an advantage, and may be the means of preserving pub-

lic liberty and promoting general improvement, namely, the honest combination of statesmen for patriotic purposes. This becomes an intolerable evil when it is made the mere engine of selfish men for giving power and profit to themselves at the expense of the public good, and by the subservient agency of the people whose interests are sacrificed to the views of their leaders. Opinions are then assumed, in order to marshal politicians in bands and separate them from others. Place is the real object; principle the assumed pretext. The people, instead of thinking for themselves, are made the dupes and the tools of others,—hurried into all the follies of which thoughtless men are capable, and into as many excesses as their designing leaders dare let them commit consistently with their own safety, and without the least regard for that of their followers. Now, nearly the whole influence of such party chiefs is grounded upon the political ignorance of the people at large; and the permission thus assumed to make and dictate their opinions. In such a state of things Dean Swift's saying is correct, that "Party is the madness of many for the gain of a few;" and such a state of things could not exist among a people politically educated. As the navigators who first visited the South Sea Islands could purchase the lands, goods, and chattels of the natives for a red feather, our ancestors four centuries ago could butcher one another by thousands, and extirpate nine-tenths of the nobility of the country in a few years for a red or a white rose; but the wars of Lancaster and of York could no more be waged in our time, than the South Sea islanders, after being civilized, can be induced to barter their property for nothing; and the day will come when other party differences will be regarded with the same contempt with which we now regard the factions of the Henrys and the Edwards.

6. This leads to the important remark, that the question is no longer left open to us whether the people shall be taught politics or not. Taught they must be, and the only question is, whether they shall be well taught, or ill instructed and misinformed. Do what you will somebody will take the part of public instructor. It is an office that any man in a free country may assume, and it is one which almost every one thinks himself qualified to fill. If the people are not taught sound doctrine upon the subject, by calm and tolerably impartial men, they will inevitably listen to guides of a far different description, and will fall a prey to the more violent and the more interested class of politicians, to the incentives of agitators, the arts of impostors, and the nostrums of quacks. If, indeed, a teacher so far violates his duty, as to give partial, inflamed, untrue accounts of the subject he inflames handle—if he keeps out of view the facts which history has stored up in illustration of the tendency of particular systems—if he inflames the passions of an unthinking multitude, and converts a course of instruction into an engine of faction,—then he may do mischief, as all men may who are guilty of fraudulent and mischievous actions upon false

pretences. But this possibility only furnishes a reason against mis instructing the people, not against teaching them; it warns us to avoid impostors, not instructors; it shows that politics may be ill and dishonestly taught, as religion, or even morality itself may be; not that politics should be left untaught any more than morals and religion. And assuredly we may rest satisfied of one thing; the difficulty is far greater, of making a course of lectures the means of propagating, by foul means, any system of opinions, than the difficulty of deceiving the people in any other way. The shame, upon the detection of such a design, is far greater, and the chances of its being detected are more numerous. The good dervise, of whom the legend speaks, took the honest and the rational course; he was a fair, as well as a wise teacher. Had he, like the Levite in the parable, kept aloof and passed on the other side, while the work of death was going on, he would have been a weak, and a timid, and a selfish man. But had he interfered to prevent the combatants looking on both sides—had he, who saw the shield in either direction, persuaded each knight that he was in the right, and that the other was in the wrong, he would have been justly execrated as a dishonest guide—his treachery would have been speedily discovered—and both parties would have joined in scorning, and in punishing him.

Let it not, however, be supposed that any course of political lessons can be given with no leaning to one set of doctrines rather than another. Such a thing is hardly possible, consistently with honesty; and, were it possible, it would not be at all desirable. On a subject like this every one who has well considered it must have formed his opinions; and he must, therefore, conscientiously believe those opinions to be right—nay, to be the only right and safe ones for the people to entertain. It is, therefore, his bounden duty to declare his sentiments; and it is infinitely more fair, more honest, and more useful, as well as safer, that he should declare them openly, distinctly, and manfully, after stating the whole case, and the reasons on both sides, than that he should give a partial view of the argument, and leave the audience to draw its own conclusions—that is, his own conclusions. He is a teacher, not a partisan; he is fairly to expound the views and the arguments of others with whom he differs; and he is to give his reasons for retaining his own sentiments. From so open and honest a course of proceeding no mischief whatever can be apprehended, and no other course can be called Instruction. Can any one doubt that it is best for the people and safest for the government that this course should be pursued upon all political subjects, and most of all upon those subjects which are the most calculated to excite deep interest and rouse strong feelings? What better means can be devised of showing the public how much it is their interest to inquire and judge for themselves? What better security can be provided against the efforts of violent and intriguing men? What more sure remedy against the arts of political

empirics, whose natural prey is, and ever will be, the ignorant vulgar—but who in vain display their wares before well-informed and reasoning men?

These considerations may serve to show, not merely that the Political Education of the people is attended with none of the danger to the peace of society which the objectors apprehend, but that a positive security is afforded by it against the very worst dangers to which the cause of good order in any community can be exposed. But we must go yet a step further, and observe that the right of the people to be instructed as to the public interests, and the duty of their superiors to educate them in Political Science, rests upon higher ground than has yet been taken.

The force of public opinion must be acknowledged in every government, save only that of the most purely despotic form. It has more or less a direct influence, according to the nature of the constitution under which the people live; and the momentum with which it acts varies, under the same kind of constitution, according to the degree in which the people are educated. But even in countries that enjoy little constitutional freedom, the public voice, when raised, is effectual; and even the most ignorant nation has a will which its rulers must not venture entirely to disobey: nay, in absolute monarchies, where public opinion forms the only check on misgovernment, and the people seldom exert any influence, yet, when they do interfere, it is oftentimes with terrible effect. Nor is any interposition likely to be withheld merely because, from the popular ignorance, it happens to be uncalled for or exerted in a wrong direction. How important, therefore, is it, with a view to the people's only safeguard, and the ruler's only curb, that they should be well-informed upon their political interests! But how immeasurably more important is it in countries, living under a free government, that those whom the constitution recognises as sharers, more or less directly, in the supreme power, should have a correct knowledge of the state of their own affairs, and the principles upon which their rights and their interests depend! It must be observed that no government, even the freest, can be in the hands of the people at large; and that grand improvement of modern times, the representative system, by which extent of territory can be safely combined with a popular constitution, still leaves the exercise of supreme power in the hands of persons delegated to govern—even where there are none but elective magistrates, that is, even in republican constitutions. Those delegates, then, be they executive, or judicial, or legislative, require the vigilant superintendence of the community, in order to prevent errors or abuses, to quicken their diligence or to control their faults, during the term of their office. This superintendence is most wholesome if exercised by an enlightened people, and affords the only effectual security for constant good government—the only real safeguard for popular rights. How many fatal errors

would rulers of all kinds, and in all ages—whether Consuls and Senates, or Archons and Assemblies of the people, or Monarchs and their Councils, or Kings and their Parliaments, or Presidents and Chambers, have been prevented from falling into; and how many foul crimes, both against the interests of their subjects, and against the peace and happiness of the world, would they have been deterred from committing, had the nations submitted to their care been well instructed in the science of public policy, acquainted with their true interests, aware of the things most dangerous to their liberties, and impressed with that sense of duty to their species which an enlarged knowledge of Political Philosophy can alone bestow! Take, again, the instance of war—that game, as has been well said, at which kings could never play were their subjects wise—how melancholy is it to reflect that nearly all the devastation which it has spread over the earth would have been spared, with the countless mischiefs following in its train, had only the same enlightened views prevailed which have already resulted partly from sad experience, partly from diffused information, and which seem, at the present day, to have, at least for a while, taught men the guilt as well as the folly of war! But experience is a costly as well as an effectual teacher; and the same lesson might have been wholly learnt without the heavy price that has been paid for it. Experience, too, is a teacher whose lessons are forgotten in the course of a little time; as the memory of wounds and the fear of fighting wears out with the pain they occasion. Nothing, then, can effectually and permanently instil the sound doctrines of peace and of justice into any people but an extensive Political Education, to instruct them in their interests and their duties. It is the same with the frauds as with the oppressions of statesmen. The sacrifice of the many to the few would be impossible in a well-informed country. That game of party, in which the interests of the people are the counters, and the power and pelf of the gamesters themselves the only thing they play for, though not the only stake they risk, never could be played to the destruction of public virtue and the daily peril of the general good, were the people well acquainted with the principles which should govern the administration of their concerns; and possibly it is an instinctive apprehension of this truth that has made all parties so averse to the general diffusion of political knowledge.

But it is not merely as a control on the mismanagement of their affairs, and a check to encroachments on their rights, that the interposition of the people is required in every country, and is the very life and soul of each constitutional system; they ought to promote the progress of improvement, by urging their rulers to better by all means the condition of those under their care, and above everything, to amend the errors of their political system. As all government is made for the benefit of the community, the people have a right, not only to be governed, but to be well governed; and not only to be well governed, but

to be governed as well as possible; that is, with as little expense to their natural freedom and their resources as is consistent with the nature of human affairs. Towards this point of perfection all nations ought constantly to be directing their course. But the rulers having no interest of the kind—nay, rather an interest in keeping things as they are, if not making them go backwards—unless the people interfere, little progress will be made in that direction, and some risk always incurred of losing the ground already gained. Surely, then, nothing can be more manifest than that full and sound political information is necessary for those whose strongly pronounced desire of improvement is the best security for the progress of all national reform. The diffused knowledge of the general principles of policy, and an intimate acquaintance with what has been done in other countries, and with the results produced, becomes as sure a source of political improvement as the diffused knowledge of mechanical science, and an acquaintance with the inventions of foreigners, is the source of almost all improvement in the arts. The education of particular classes alone may, no doubt, be better than the general prevalence of political ignorance; but as those classes for the most part have particular interests, and each has its own purposes to serve, the only security for improvements which may benefit the whole body of the people, is for the whole body of the people to understand in what their true interests consist.

In truth a greater absurdity cannot well be imagined, than attempting to keep the bulk of mankind in ignorance of all that appertains to State Affairs. State affairs are their own affairs. An absolute Prince* once exclaimed, "The State! I am the State!" But the people may most justly exclaim, "We are the State." For them laws are made; for them governments are constituted. To secure their peace, and protect them from injury without and within the realm, rulers are appointed, revenues raised, police established, armies levied. To exclude them from the superintendence of their own affairs, is as if the owner of an estate were refused the inspection of his accounts by his steward. To prevent them from understanding the principles on which their affairs are administered, is as if the owner of an estate were suffered to know what his steward was doing, but debarred from all understanding of what he ought to do. To prevent them from knowing what are the institutions and the condition of foreign nations, is as if the owner of an estate were precluded from knowing how his neighbour's property was managed, what rent he got for his land, what salaries he paid his agents. In every country, whatever be the form of its government, and however little of a popular cast, this is the amount, and this the aspect of the absurdity propounded by those who would prohibit the Political Education of the People. But incomparably grosser is the

* Louis XIV.

absurdity of keeping the people in ignorance where the constitution of the government is of a popular kind. There, the people are called upon to bear a share in the management of their own affairs, to attend public meetings, to serve in offices, to vote in the choice of lawgivers. There may be some consistency in excluding them from all the knowledge that would fit them for performing those high political functions, while you also exclude them from all exercise of the functions themselves. But to make them political functionaries, and to leave them in ignorance of political subjects, is little less absurd than it would be to keep the owner of an estate ignorant of farming, and expect him to superintend the management of his farms. But if it be said that there is no occasion for all the community learning Political Philosophy any more than there is for all a landowner's family inspecting his accounts and understanding agriculture; the answer is obvious, that all the community, and not particular classes, are the parties interested in State Affairs; and that if any family can be found in which all the members, servants included, have their several shares in the property of the estate, then, beyond all question, each member, down to the humblest menial, however inconsiderable his share of the property, would be entitled to inspect the accounts—would be directly interested in superintending the management—and would be unspeakably foolish to remain in ignorance of the principles on which farms should be managed, and the condition and management of the other estates in the neighbourhood.

Nor can any the least risk arise to the peace and good order of society from the humbler classes occupying themselves with such pursuits; any, the least, risk of their grudging their superiors the benefits and the privileges of their station, or seeking to displace them, and shake the stability of the national system. Imperfect knowledge of Political Philosophy, a superficial acquaintance with what is passing in other countries, and what has, in past times, been the history of their own, may expose them to be misled by designing men, or to become the dupes of their own irregular desires and groundless fancies. Such errors are inseparable from all learning, because they are the consequences of the imperfect information with which learners must begin; they overshadow the dawn of all intellectual improvement; they cloud the mind before the sun has yet arisen; but they offer the same obstacles to knowledge in all its branches, and are as much objections to moral, and even to religious, instruction, as to the study of Political Science. The risk—the temporary and inconsiderable risk—is admitted; the guarantee is certain, and it is easy. An imperfect light is dangerous. In the twilight men's steps falter; and, as they dimly see, they doubtfully grope their way. Then let in more light! That is the cure for the evil; and that is the answer to the objection. But of one thing we may be well assured: be the dangers ever so great of instructing the people on that which it most concerns them to know—be the hazards arising from the circula-

tion of free opinions and the diffusion of political knowledge among the people a thousand times more imminent than they have ever been painted by alarmed and short-sighted men; we cannot prevent the evil, be it ever so appalling, and are left to apply the only remedy—"Let there be light." In vain you seek to put down such doctrines by force; even to quell the uproar of admitted errors by force is of no avail in maintaining quiet. Rather say, force alone has the power, greatly and widely to disseminate falsehood. Doctrines ever so fantastical, ever so wild—tenets as dull as they are groundless, as revolting as they are untrue—systems as rotten as they are deformed—follies which, left to themselves, must quickly die a natural death—all are capable of being forced onward to success by injudicious attack. The rod of power, like the magician's wand, can change deformity into beauty, lend strength to the rottenness, give currency to the dulness, and life to the decay of errors, which nothing else could recommend, or circulate, or preserve. To oppose the progress of truth—to suppress the communication of opinions—to obstruct the diffusion of knowledge—is not so pernicious, but is quite as ineffectual an exercise of the persecuting power.

It remains to mark the most salutary effects of an extensive diffusion of Political Knowledge—the most salutary, because unalloyed by even any the least and most transient inconvenience. An enlarged view of their own best interests must give the people sound and enlightened feelings respecting the merits of human conduct, and form in them the habit of justly estimating the character and the conduct of the men who guide the affairs of nations. The mischiefs are incalculable which have resulted to our species, from the habitual false judgments formed on this important subject by the bulk of mankind; and it must in fairness be confessed that the great crimes which have been committed by statesmen in all ages, have been mainly caused by the encouragement which the people have given to the criminals. Dazzled by success, subdued by the spectacle of triumphant force, stricken with wonder at the mere exercise of great faculties, and the sight of the events which they brought about, men have withdrawn their eyes from the means used to attain those ends, and lost their natural hatred of vice in their admiration of genius and their sense of power. No disgust at meanness, no scorn of treachery, no horror of cruelty, has hitherto availed against the false lustre shed over despicable and detestable deeds by brilliant capacity crowned with victory. But that is not all the folly committed by unreflecting men. The most absolute disregard to their own interests has been coupled with their misplaced admiration of successful guilt. The crimes which dazzled them were perpetrated at their cost; the price paid was their own long and boundless and bitter suffering. For all that was done amiss and for all themselves admired, they themselves paid. Their own best interests were sacrificed quite as much as principle and duty were

violated. They have lavished upon tyrants, and conquerors, and intriguers, who were their worst enemies, their loudest applause; for those pests of the world reserving the fame that should have been kept sacred to virtuous and beneficent deeds; and confining the title of "Great"—the prize that all generous natures strive after—to those whose lives were spent in working their misery and their ruin. This preposterous combination in which the people have so long been leagued to call things by their wrong names, to praise the wrong men, to suffer that the scourges of their kind, the enemies of peace and freedom and virtue should not merely escape reprobation, but should monopolise all the places in the Temple of Fame, has been the fruitful source of human misery and national crimes, and it has been the result of nothing but the darkest ignorance. The knowledge of Political Science which teaches the people their true interests, can alone rescue them from the error of ages—restore public virtue to the pedestal which successful vice has so long usurped—and secure on a lasting foundation the peace and the happiness of the world.

INTRODUCTION.

THE SOCIETY FOR THE DIFFUSION OF USEFUL KNOWLEDGE, moved by the considerations set forth in the Preliminary Discourse, and by the fact that there is no work now in existence which even professes to embrace the whole of Political Science, has resolved upon publishing a Series of Treatises upon this most important subject.

The political works already before the world in England are liable to two great objections; none of them professes to instruct upon more than some detached portions of the subject, and all of them even upon these particular departments are defective, in presenting a view of the science in its improved state, while on some of the most important branches of the whole there are no treatises whatever extant. Thus it would be difficult to inform the student of Political Philosophy what books he should consult, in order to obtain a view of the constitution of the different governments established in various parts of the world. The work of Dr. Paley embraces the Principles of Political as well as Moral Philosophy; but able and judicious as in many respects that portion of the book is, the space allotted to it being little more than one-third of two moderate-sized and widely printed octavo volumes, shows how far it must be from explaining the whole even of the principles of the science. Of Political Economy it has almost nothing; it only gives the principles of government in their most general form; it makes no application of them to any constitution but that of England; it derives from the constitution of no other country any illustration of them; and it may justly be regarded rather as an illustration of the doctrines of Moral Philosophy, and an appendix to the main body of the work, than as a treatise on Political Science. The work of Lacroix on the European Constitutions and that of the United States, it is believed, has never been translated; but however this may be, nothing can be more superficial; and as it was published by a political partisan during the stormy period of the French Revolution, it is throughout more or less tinged with party opinions and the feelings of the day; not to mention that the half century which has elapsed since its publication has made no little change in many of the old constitutions, and called not a few new ones into existence. It may, indeed, be further affirmed, that nearly the same difficulty exists of referring the student even to any treatise of Political Economy, which at once professes to handle the whole subject, and is suited to the present improved state of the science. The celebrated work of Adam Smith does not at large and systematically treat the subject; it is rather an exposition of the errors

of the Mercantile System than a full exposition of the whole science; and besides that, many of the doctrines are now generally admitted to be erroneous, many important discoveries of late times, as the doctrines relating to rent, to currency, to population, are left wholly untouched. The works of Mr. Ricardo, Mr. Malthus, and Mr. Mill, though entitled on Political Economy at large, are confined to the discussion of certain principles, highly important indeed, but both controversially handled by those eminent writers, and embracing only a small portion of the whole science, while the only English book professing to go over the whole subject, that of Sir James Steuart, being written before the speculations of Smith in this country and the Economists in France, contains, on most of the subjects described, as different a view of the science from that now universally received, as if it were written upon another branch of learning.

The works of French authors are equally liable to objection as treatises at once exhausting the subject, and adapted to the existing state of our knowledge upon it. Montesquieu's Spirit of Laws deservedly enjoys a high reputation for bringing together many principles relating to the philosophy of government: but, besides that it is almost wholly confined to that branch of the subject, it is built entirely upon a fanciful system, recommended by an appearance of symmetry and generalization, and wholly devoid of solidity, while it throughout bends the facts of the case to suit a theory, and substitutes for the exposition of sound principles the perpetual use of antithesis and epigram. The writings of the Economists are confined wholly to one portion of the theory; and that is given in the peculiar sense of their own school, beside being presented in a form extremely repulsive, both from the abstruseness of the argument, and the dry and unskilful nature of its composition. The treatise of Say is confined to Economical Science, and contains none of the latest improvements. The different heads of the *Encyclopédie par Ordre des Matières* contain perhaps both the best discussion of principles and the fullest account of facts anywhere to be found; but these dissertations and narratives are scattered over many volumes, and do not in any degree supply the want complained of, beside being deficient in recent matter both of fact and of principle. The objections to Lacroix's work have already been stated; and it is confined to one branch of Political Science.

It seems evident, then, that some full, yet popular, explanation of the whole principles of Political Philosophy is wanted; and the "Political Series," of which the present treatise forms the Introduction, is designed to supply this want. The whole science, according to the general arrangement described in the Preliminary Discourse, is to be expounded in this series, with the exception of Jurisprudence and the Law of Nations, the principles of which will only be treated of incidentally in discussing subjects coming under other heads.

CHAPTER I.

FUNDAMENTAL PRINCIPLES OF GOVERNMENT.

Foundation and origin of Civil Governments—Doctrine of Original Contract shown to be groundless in point of fact, and impossible in theory—Mr. Locke's argument considered—Doctrine held by the opposite party, under Sir Robert Filmer, of the Patriarchal origin of Government and Divine Right—Locke's doctrine unfounded; but the practical inferences comparatively safe—Filmer's facts correct, but the inferences groundless and dangerous—Notion of Divine Right and Passive Obedience, examined—The question of the form of Government is one of expediency—This is the sole ground of the duty of obedience and the right of governing—The question of Resistance examined—This shown to depend on Expediency—The doctrine of Resistance established by Parliament at the Revolution in 1688—History of its adoption and conduct of the two parties—Limitation of the right deduced from Expediency—Hazards of change, and evils of civil struggle—Doctrine of Prescription examined—This shown only to be either a mere advantage and no ground of right, or to be resolvable into expediency as far as it is a ground of right—Distinction of this from the case of Property—General conclusions:—1. That through the whole system of Society, Expediency, or the general good of the Community, is the very governing principle of all right—2. That this is also the safest foundation for the peace and good order of the State—Doctrine of Resistance further explained and illustrated—Practical limitation of the right—Statement of the doctrine by Paley, though less cautiously—Statement by Blackstone, who adopts it entirely—The origin and history of the two parties, Whig and Tory, which have sprung out of the controversy on this doctrine—State of the question in 1688—Account of the two parties, and the modifications which they have in late times undergone.

ALTHOUGH the foundations upon which all government rests —the reasons by which the bulk of men have become bound to obedience, and the means by which a few have become clothed with authority—be not the most important branch of Political knowledge, in a practical point of view, yet would a course of instruction upon this subject be imperfect, which did not treat, and treat in the first instance of that question. We shall, accordingly, now proceed to explain it.

Various accounts have been given by speculative men of the origin of civil government, and political parties have adopted one or other of those theoretical views as it served their purpose, either by suiting the line of practical policy which each favoured in the state it belonged to, or by falling in with the general principles which each found it convenient to profess. Of those systems the most famous is that which is usually called the doctrine of the "*original contract*," or "*compact*," which supposes all the citizens to have at first joined in forming a community, and to have made a contract, or agreement, or treaty with each other, and with those whom they chose for their rulers;—such treaty specifying the duties of obedience on the part of the people, and of just and lawful government on the part of the rulers. This theory assumes, first of all, a general agreement of the whole community, that the will of the majority should bind the minority; and it deduces from hence, the appointment of fundamental laws, and forms of government, and of individuals, or families, or select bodies, to act in the administration of affairs. The main object in view being to explain the rights and duties of the governors and governed, this hypothesis certainly does account for these, by putting everything upon the footing of a bargain; and resolving the duty of allegiance, on the one hand, and protection on the other, into the obligations contracted by the parties, or by those original parties of old, into whose place the present generation of men have come, and by whose acts they are held to be bound.

As it is a consequence of the same view of the subject, that when the sovereign power breaks the conditions of the treaty by acting against laws made in conformity to the contract, the bargain should be at an end, and the subject be released from his allegiance, the doctrine of the original compact naturally became a favourite with the advocates of liberty—those who refused to put the rights of sovereigns upon any ground of indefeasible title, or to admit any rights in rulers to hold the government as a property of their own, and exercise its functions for their own separate benefit. Accordingly, Mr. Locke, one of the warmest friends of pure principles both in politics and in morals, strenuously supported this theory, and it was pretty generally held by the party which brought about in England the Revolution of 1688. Nay, the doctrine was then recognised by legislative authority. The House of

Commons of the Convention Parliament, in January, 1689, passed a resolution that James II. had "broken the original contract between king and people," and this, as well as the allegation that he had "abdicated," thrown in, after long debate, merely to humour the opposite party, was given as the ground for declaring the throne vacant; while the acts of tyranny alleged as the proofs of his having broken the contract were, in fact, the real grounds of the declaration, as they formed the true reason for the change of dynasty. The Lords, by a narrow majority of 53 to 46, adopted the same declaration, and upon this proceeded the offer of the vacant crown to William and Mary. We may therefore regard the theory of the *original contract* as the doctrine of our Constitution established at the Revolution, 1688. Nevertheless, though sanctioned by such revered names, and recognised by such high authority, it is unquestionably an unfounded supposition, wholly fanciful, and proceeding upon no accurate view either of facts or principles.

That there neither is nor can be any foundation for it in fact, must appear obvious upon the slightest consideration. No history of any country, ancient or modern, no annals of any community, great or small, present the faintest vestige or the most obscure traces of any such agreement as this doctrine must necessarily suppose to have been actually made; else it is of no use at all. Indeed, the origin of all nations (except colonial settlements, which are really only portions of another nation) is lost in the darkness of remote antiquity. But there is not any possibility of supposing such a compact to have been made; for if made at all, it must have been at the very beginning of a society being formed, and that period must always be one of the earliest, and consequently in one of the lowest stages of civilization. The act of meeting together in large numbers for any purpose but making war or feasting, pre-supposes a considerable progress in refinement. But still more refined must a multitude be which resolves for the general good that the acts of their majority shall be binding on the whole; and even if we suppose this step once made, the act of resolving upon a form of government, and upon choosing one individual or body of individuals to command the rest for the common good, can only be expected to arise out of a settled and even polished state of society. Not only do these considerations show that no such contract as the theory

supposes ever was made, but they show that none could possibly have been made. For when men could be able to make such a compact, or even to think of making it, they must have made great advances in refinement, and no steps ever can be made by men living solitary without any civil control or discipline—that is, without any government. So that the supposed contract never could be made until after the government had been long established; and yet it is called in as a means of explaining how government originated and by what title the governors rule the governed, and how the general will binds all the members of the community, whether all assent or no, and whether all are consulted or no.

We have in both ancient and modern times the history preserved to us of the foundation of some states by colonization. A body of persons emigrating voluntarily, or under the direction of their government, remove to a new and unpeopled country, or to some place from which they expel the natives, or reduce them to subjection; and they form a settlement connected with the mother country. In this way the Greeks planted colonies in Italy, Sicily, on the coast of Asia Minor, and Africa; the Romans not only all over Italy, but in every part of their extensive empire; and the modern Europeans, especially the Spaniards, Portuguese, and English, in America and Australia. But those who formed all these states were before united under a regular government, and carried with them the reciprocal habits of protection and allegiance which had been long established. The new plantation was therefore only a parcel of the old state—an off-shoot from the parent country—and all her civil rights and duties, long established and recognised, were carried abroad with the settlers, and continued in the new country as they had been in the old. There was no more occasion for any new social compact than there is on building a new town in the old country.

The formation of the flourishing country now called the United States of North America perhaps comes nearer than any other to an instance of something like a compact in founding a new community. But still it is extremely remote from the case which the theory supposes; for all the inhabitants had long been living under a regular government; they had been subjects of a king and a parliament; they had performed the duties of the governed; they had obeyed the laws made to regulate their intercourse with

each other. Early in the seventeenth century the settlers carried out with them charters from the crown, and were governed by the parliament precisely as their fellow-subjects were whom they had left behind them; and the only thing which their descendants did in 1776 was to resist the established dominion of the mother country and her delegated governors, to throw off that yoke, and to establish a new constitution for themselves. Society had been formed; the majority had bound the minority; the relation between ruler and subject had been established; the duty of obedience had been recognised; and the government of the people, and the administration of the state affairs, had been exercised; the Revolution of 1776 only transferred the duty of obedience, and continued it towards other rulers; it only made the office of governing change hands. But the question, and the whole question, is, whence this duty and this office arise at first? How does one man give up his natural power to do as he pleases, and another acquire the power to make him do something else? Nor, it must be added, would the difficulty be at all removed, which encumbers the theory in question, were we to find in ancient times, or in our own, one or two examples of men, formerly uncontrolled, meeting and agreeing to form a society under certain rules and conditions. These would be solitary instances, which prove nothing on the general question; and besides they would be instances of civilised men combining for certain purposes in a refined state of society, in which government is well understood, whereas the question, and the only question, is, how government first arose among men. There would still remain the numerous other cases of established governments to be explained. Moreover there would still be no way of explaining the transfer of the compact from those who originally made it to their descendants; for it must be observed that the faculty of a man to do what he likes in a state of nature is not one whit more clear, than the faculty of one generation to do as it pleases without being bound by what others did who lived before.

Mr. Locke (Civil Government, c. viii.) adduces a singularly vague, slovenly, and fallacious argument, to account for no history recording the formation of the contract which he supposes to have been made. He says, "We may as well suppose the armies of Xerxes never were children, because we hear little of

them till they were men and embodied in armies, as that men were not embodied by an agreement when they formed societies." It is quite clear, that nothing can be more different than the two things, one of which is familiarly known to us, and the other not at all, not even by the faintest, or slightest, or most remote tradition. The case put is answered at once like most inapplicable cases, either by admitting the fact and denying the inference, or by observing that if the case put be so altered as to resemble the one in hand, it no longer bears the conclusion. Thus it is clear that if we saw the armies of Xerxes for the first time, fully equipped, and never before had seen any men in their infant state, (which is the case with our knowledge of the social union) we never should be able to discover that the troops had once been different from what we now see them. If, on the other hand, Mr. Locke only uses this illustration to show that men were once in a rude state, and that the first origin of refinement is lost in obscurity, we may observe, that the difficulty lies not at all in believing the existence of a savage state, but in believing that savages, with a view to forming communities and founding constitutions, met by peoples or tribes, bargained upon their individual rights for the public good, and formed rules by compact, to guide their conduct and that of their posterity.

If Mr. Locke and those of the Commonwealth party who with him trace the origin of government to an artificial contrivance of the first members of each community err greatly on one side, their antagonists who side with Sir Robert Filmer, and the high monarchy party, err just as widely in the opposite direction, when they maintain that government, by which they mean Monarchy, comes immediately from Heaven, is established by divine right, and is founded on an original title paramount to all human considerations, and exempt from every claim or right of controul by man. In principle, their error is just as great as the mistake of the other theorists, and in its practical consequences it is much more dangerous. In truth, the consequences of the doctrine of original contract are not for the most part mischievous. It teaches rulers that they owe certain duties to their people—subjects that they owe duties to their rulers—and it has not in general been charged with any more hurtful tendency than that of making the people believe their allegiance at an end when their rulers have violated the duties of their station. It must, however,

be observed, that it also releases rulers from their obligations as soon as their subjects violate their duties; and, what is much more material, it seems to prevent any change in the Government, however beneficial, without the consent of the rulers, because it holds the subject bound as long as the ruler performs his obligations. Nevertheless, many of the consequences of this theory are sound. Its foundation may be, and certainly is fallacious; but the inferences deduced from it are for the most part far from being incorrect, as we shall afterwards see. The opposite theory leads to every kind of mischief. Rulers are taught by it that they have a title indefeasible, and a power which no misconduct of their own can forfeit. Subjects are taught, that to seek redress, even when most oppressed, by the worst of governors, is to rebel against Heaven. A more certain receipt for producing misgovernment of every kind, and national calamities of all descriptions, it would be difficult to devise. The bad tendency of the opposite doctrine, that of an original contract, which has just been stated, is practically speaking much less serious and extensive.*

The two conflicting doctrines which we have been considering may be regarded as running through the great political controversy which divided statesmen and parties for the greater part of the century preceding the Revolution of 1688, and for almost a century after that event. With certain modifications, they continued, even down to a later period, to form the creeds of the same contending parties; and even now, when the tenets of an Original Compact on the one hand, and of Divine Right on the other, are abandoned, the conclusions or corollaries which were once drawn from those exploded theories are become the ruling principles of the two great parties of Liberal and Conservative politicians. In other countries we may trace the same distinctions, as of Liberal and Servile in Spain, Arbitrary and Constitutional in Germany, and Revolutionary and Counter-revolutionary in France.

The inquiry concerning the true origin of power and of go-

* Hobbes, who was a Monarchist, was the first writer who put forth a philosophical statement of the doctrine of the original or social compact. His original contract differs from Locke's inasmuch as it is only between the subjects. Hobbes saw the absurdity of supposing the Supreme Power in the state capable of being bound by a compact with its own subjects. He wrote in 1642-51.

vernment must of necessity proceed upon conjectural grounds. A patriarchal dominion was in all likelihood the earliest known among men. The father of each family exercised a control over his children, and when he ceased to defend them or provide for their wants by his strength, he influenced them by his authority derived from their habit of obeying him, and also from the wisdom which he had gained by experience, and which enabled him to advise them in their proceedings. A few families, uniting with the view of some common measure, as of aggression, or self-defence, or hunting, would naturally yield to the hardiest or most experienced of the whole as a leader; and having successfully guided them in the enterprise, he would frequently succeed in usurping power over them afterwards. The necessity of having some able chief in such expeditions would frequently lead to elective power; and hereditary power could only be established by a succession of able men arising, and continuing until their dominion was consolidated and their clan or tribe became accustomed to their sway. That monarchy, or the government of single persons, was thus in some shape or other the earliest, as it still is the most universally established form of civil polity, cannot be doubted. Its foundation is laid partly in the necessity of submission for accomplishing a common purpose, and partly in the permanent usurpation following from the temporary authority thus obtained. After some time the power of the Chief or King is strengthened by his forming a union with a few other persons of influence whom he favours, and enables to oppress the rest of the community, in return for their helping him to retain supreme power; and out of these confederations arise both the guards and standing armies, and the privileged orders, or nobilities, or aristocracies, of more extensive and more civilised communities.

But it is not merely by body-guards and confederate chiefs or nobility, that kings extend and maintain their dominion. The advantages of having a general opinion established in favour of their title to rule soon strikes them; and every expedient is resorted to for the purpose of obtaining this concurrence. The best expedient of all would have little effect in the early stages of society—that of a mild and beneficent rule. Feelings more powerful than respect and gratitude must be excited, even if the people were sufficiently wise to understand when they were well

governed. Accordingly, fear is the principle to which the appeal is chiefly made; and the aid of religious impressions is called in to increase the awe which mere physical force inspires. The sovereign pretends a divine mission; he sometimes causes it, with the aid of the priests, to be believed that the gods of the clan or tribe sanction his authority by constant interposition; he traces his title, and frequently his descent, from them; he propagates the belief that he is in communication with them. Thus many Eastern monarchs have professed to be immediately related to the gods of the country. In ancient times the popular belief never swerved from the traditions inculcated by both priests and kings, of supernatural interposition and divine intercourse. Romulus, the first king of Rome, was supposed not to have died, but to have been suddenly taken up into heaven; Numa Pompilius, who succeeded him, pretended that he had intercourse with a nymph or goddess who instructed him in the mysteries of government; and a set of books were kept by the priests, said to have been sold by a prophetess, or sibyl, to one of his successors, and were believed for many ages to contain predictions; so that the government and the priests could at any time affirm to the people that certain things must be done or submitted to by force of the denunciations or counsels which those secret volumes contained. After the downfall of liberty the title of Divus, or God, was given to the Roman Emperors after their death. Thus Augustus, who has gained some reputation by his patronage of literary men, but who began his career by joining with Antony and Lepidus, two of the most abandoned and cruel of men, in a plot for dividing the supreme power, by allowing to be murdered each his own particular friends, in order to destroy his enemies, the friends of his vile confederates,—Tiberius and Nero, whose names have become by-words in all ages for the most wicked, bloodthirsty, and polluted monsters that can disgrace humanity,—and so many other of the tyrants who filled the world one after another with their slaughters and lusts,—received this appellation of Divus from the Roman people, with the degraded senate at their head. Nay, when they died the ceremony was not called burning or burying their bodies, but apotheosis, or receiving them into heaven as deities; and they were worshipped at altars and in temples raised to them Such was the pitch of

baseness to which the Roman people sank by allowing their rulers to encroach upon their rights.

The Incas, or Kings of Peru, and our own Saxon kings, derived their descent immediately from the gods of the country. The Shah of Persia is called Cousin of the Moon. The empire of China is called Celestial, and the Emperor is believed to have a divine relationship. The Lama of Thibet is firmly believed to be himself the deity of the country. He is attended by priests, who, at each succeeding Lama's death, pretend that they have discovered the body of the child into which the God has transferred himself, and then keep him all his life a close prisoner, to be worshipped by the people, while they rule the country in his name.

In other countries, at least in modern times, the pretensions of the sovereign are much less extravagant, and are now reduced to little more than a name. But all their titles are derived from a divine original,—all refer to them as representing the Deity on earth. They are called "*Grace*,"—"*Majesty*." They are termed "*The Lord's anointed*,"—"*The Vicegerent of God upon Earth*,"—with many other names which are either nonsensical or blasphemous, but which are outdone in absurdity by the kings of the East. The pride and vain-glory of them all, however, is eclipsed by a wretched freebooter, a Tartar Prince, a Khan, who lives all the year round in a tent, upon raw horse-flesh and fermented mares' milk; and who, every day after his meal, has proclamation made that all the kings of the earth are now at liberty to dine, he having finished. A Scottish chieftain, whose fare is no doubt far less bad, but whose power is much more limited, used, in very late times, to proclaim the same permission to emperors as well as kings after each daily repast.

It is fit, however, to remark that, in many cases, these expedients for augmenting and confirming the sovereign authority had their origin, and in all probability their success, in the ignorance and slavish disposition of the whole or a portion of the people. The courtiers, in some cases from mere subserviency, in others from being the chief's confederates, and sharing in the benefits derived from his oppression of the people; the priests from like motives, and to confirm their own influence by an alliance with

temporal power; in not a few instances the people themselves, from the natural tendency of uncultivated minds to submission; either suggested the contrivances by which the ruler was aggrandised, or willingly came into his plans for usurping or strengthening the supreme power.

Thus we have supposed that all government, originally monarchical, had its origin in the circumstances and necessities of rude tribes, and in the ambition and usurpations of their chiefs; and that those, having established their power, have continued it by all the contrivances which cunning, on the one part, and ignorance with voluntary submission and sycophancy on the other, enabled them to adopt. But the continuance of power thus gained and consolidated rests upon a different and a better foundation, which also forms the ground of the duties of the governed and the rights of the governors.

There is a manifest convenience in having some system of government. Be the society large or small, if it exceeds a single family, the advantage is obvious of its all acting in concert and by rule; and even one family is the better for obeying its head or parent. No other means can be devised of making the councils consistent and sustained, and the executive operations of the community, regular and effectual—no other means exist of repressing violence, and securing the enjoyment of property and other rights to all. If the government were not to be fixed, constant evils must ensue. Therefore, when men began to look about them, to inquire concerning rights and duties, to speculate upon the natural liberty and natural equality of all, they found a government already established; they perceived that it secured some advantages; they thus felt no disposition to destroy it without well knowing what would be put in its place; they therefore consented to let it continue, as long as it did not outrageously oppress them, and only to change it when they found they could bear it no longer, or when they saw their way very clearly to a better. The fear of exposing themselves to being punished or even destroyed by the rulers actually in possession of power, and the suspicion which each entertained of his neighbour should he disclose to him any rebellious designs, kept them quiet in all ordinary circumstances. But this principle only operates by way of force; it gives no right to the ruler, and constitutes no obligation upon the subject. It prevents resistance; it secures power;

but it forms no ground in point of right or duty in any way; and it operates just as powerfully in favour of the worst government, the most recent usurpation, and the most tyrannical sway, as of the authority longest established, and the power most mildly exercised.

The rational foundation then of all government, and the origin of a right to govern, and a correlative duty to obey, is this:—In whatever way the power came originally to be lodged in one man's hands, or one council's, or one senate's, and be its origin ever so full of fraud or of violence, it is actually established, and produces advantages to the community. It would at first have been for men's interest to agree together and establish some system of authority, and each individual would have found his interest in giving up his own will in order to obtain his share of the general protection afforded by an orderly arrangement, made for the general security against individual violence and foreign aggression. But, although no such agreement ever was made, because in all likelihood each community arose, in very rude times, through accidental circumstances, from very small beginnings; yet the same view of each person interested in good order dictates the propriety of maintaining the plan or arrangement actually established, in whatever way its establishment may originally have been formed. To change it would be full of the greatest danger, and bring on much certain and immediate suffering to the whole people. Therefore it is better for the people at large to continue obeying the power as it is established than to destroy it, and try to make another government; or, rather, to rebel and attempt to destroy it—a measure which would be dangerous and hurtful. The government established would of course resist; some, perhaps many, would take its part: civil war would ensue: and the consequences would, after all, possibly be only to give more absolute power to the rulers, or to place a worse government in the stead of the present. General Expediency or Utility therefore, the undoubted interest not only of the greater number, but of almost the whole of the community, is best consulted by continuing to obey the established government, and not seeking its destruction, as long as its dominion is tolerably mild and beneficial, and as long as the people can hope by fair means to mend it. But, even in the worst despotisms, and where all improvement is

out of the question, there is a duty to obey; because, until such a number concur in resolving upon a change as shall have power to effect that purpose, one or a few individuals throwing off the yoke would only insure their own destruction: and even were they joined by many more, unless the probability of successful resistance were much greater than the probability of defeat, as the country at large would be the losers, and not the gainers, by the unsuccessful struggle, it is disadvantageous to all that so considerable a risk should be run, except in extreme cases. To encounter small hazards is the interest, and may be the duty, of all men, in even the ordinary management of their affairs; so it may be their interest, and quite consistent with prudence, to encounter great risks where the mischief to be apprehended from the worst happening is not considerable, and the benefit to be expected from success is great. But where the mischief to be apprehended is great—even if the benefit in view be great also—we must calculate on both sides, and are not at liberty in common prudence to expose the highest interests to even a moderate degree of hazard. No prudent man would think of killing all the dogs in a town in order to prevent even a considerable risk of the influenza breaking out. But when the consequence of a mad dog's bite is a disease of the most dreadful and fatal kind, quite beyond the reach of human art, all agree in the prudence of taking such precautions as shall preclude even the least risk of so great a calamity. So civil war is an evil of the very worst description; it is, indeed, the greatest of national calamities. Therefore, in considering whether or not it is prudent and justifiable to resist an established government, the great probability of vast mischief being, at all events in the first instance, occasioned, must always be taken into the account. In truth it is nearly the certain consequence of resistance. But the resistance may also fail to succeed: the government may remain as bad as or even worse than before. Then we have to reckon what chance there is of this last of all calamities befalling us, namely, the evil of civil war with a defeat, and a more oppressive despotism than ever being established. If there be but a considerable danger of this, we have no right to resist; because there would be no prudence, no common sense in trying the experiment unless we were nearly certain to succeed. So even if we were nearly certain of suc-

ceeding, as the civil commotion is of itself a grievous infliction upon all classes, there is no prudence and no sense in bringing such an evil upon the community, unless the present evils are of a very bad kind. Common reason teaches us that it is far better to bear with much than to pay such a price for even a successful attempt to change our condition. Therefore we never can act with a tolerably rational regard to our own interests, or with any regard to our duty to our fellow-countrymen, if we resist the established government, unless its mischiefs and our sufferings under it and from it are such as to justify us—first, in encountering the certain evils of the struggle—and next, in running the risk of failure. The mischiefs of the existing system must therefore have become almost unbearable, and the probability of the resistance succeeding must be very great compared with the risk of its failing, before men can be justified in beginning a resistance. This is the rule of reason and prudence, and this is the foundation of the duty of obedience, even in circumstances so unfavourable that a change of government, could it be brought about safely, would be the greatest benefit to the people.

In all cases therefore, both where the existing government is as advantageous as possible to the people—where it is much less beneficial than it might be, but may reasonably be expected to improve in a peaceable way—and where it is extremely bad, without chance of peaceable amendment— the duty of obedience is founded upon the same principle, the general interest or advantage of the whole. In the first case the community is interested in things remaining as they are; a change would be hurtful, and it is therefore wrong, because hurtful to the people to attempt it. In the second case, a change would be very desirable, but as the means happily exist of accomplishing it safely and without encountering either evil or risk in the transaction, it would be hurtful to the community, and therefore wrong, and indeed irrational, to attempt any sudden and violent alteration of the existing order of things. In the third case, there is no hope for the people but in an attempt to change by force; but before it is prudent to make the effort, they must be sure that they suffer so much as to make it worth their while, that is, worth the while of the community at large, to undergo the great evils of civil war; and they must above all be sure that, even if it would be prudent to undergo those evils,

the chances are much greater of success than of failure in the enterprise. Till then—till both these things concur to justify the effort—it is hurtful to the people, and therefore wrong, to resist even this bad and unchanging despotism.

The foundation of government—that is, of the duty to obey in the subjects—has by many been sought in what Lawyers term Prescription; that is to say, in long and indeed immemorial usage or possession.* There can be no doubt that this gives great weight and authority to every government, and consequently materially strengthens its power. Not only immemorial possession of the supreme power, or the existence of any government so long that no record remains of its beginning, but even long possession, or the existence of any government for a known long period of time, gives great strength and stability to that government, even the date and circumstances of whose beginning are ascertained. Men have a natural tendency to acquiesce in whatever they find established, and the longer the period of the establishment the more ready and cheerful will be their acquiescence. This disposition has its origin to a great degree in habit and the association of ideas, because we naturally like to lean towards what we have always been accustomed to, and what is mixed up with all our recollections, connected with all our feelings and pursuits, and related, as it were, to all that belongs to us. But the disposition to favour things long established has another and a more reasonable cause also. When any particular arrangement has been for a course of ages adopted, everything also has become adapted to it, and, as it were, fitted and dovetailed into it; so that many things have been voluntarily and purposely settled in such a way as to suit it, and many arrangements have been made which would, but for the existence of the old system, have been differently contrived. There is thus a manifest convenience, and indeed a real advantage, in keeping up the fundamental system, in preserving the ground-work upon which so much has been built, and in not rashly changing or destroying what, if destroyed, must pull down with it much that we have had the labour of making, and naturally should desire to preserve. Again, there is always considerable risk in change; and we know the worst of whatever has been long

* The legal meaning of the word Prescription implies usage, not only as far as living memory goes, but to the contrary of which no memory whatever runs.

tried, whereas of what is to be new in all respects we never can for a long time see and know all the imperfections. This second class of reasons in favour of things long established, is evidently wholly resolvable into Expediency or Utility, and consequently belongs to the doctrine which we have before given as the true ground of the duty of obedience. The first class of reasons in favour of Prescription, that which relates to association and habit, forms properly speaking, the only ground of Prescription independent of Expediency, and it is only a resource of which governors avail themselves—a facility which they enjoy—in maintaining their power, and not a ground or reason why they should have authority, and why the people should obey them. It is very important to them, and it is important to the community; it is a happy result of the constitution of our nature; it strengthens the bonds which knit society together, and gives stability to a beneficial system of polity, as well as force to a vicious and pernicious one. But it is no more a ground of duty than a large treasure or a standing army. A government long established is, in point of *fact,* strong and powerful by the force of prescription—that is, because men more easily conform to what has been the order of things time out of mind. But a people *ought* to obey such a government, because it is advantageous not to change it. The fact of strength is owing to long usage; the duty to obey is derived from views of general expediency only.

Upon the same foundation of Prescription it is not uncommon to vest the right of Property; but the same observation applies to this which we have just made upon the foundation of government; and the same distinction, the same two-fold division of the reasons for acquiescing in rights of property long enjoyed, must be made. The enjoyment of property is rendered more secure by the disposition which all men have from association and habit to acquiesce in things which they have always known to exist in the same state. The reason why they ought to acquiesce in it on account of its long establishment and existence is, that a change must be hurtful to the community at large, because of that long establishment. Thus one reason, and only one, in favour of leaving property undisturbed, is derived from Prescription. Great discomfort to all men would follow the inroad made by a violent change in its distribution, because a violence would be

done to all men's feelings and habits of thinking; and great convenience is found to result from taking actual possession, long undisputed, as a test or criterion of right. But as long establishment is not the only reason why it would be inexpedient and therefore wrong to disturb the existing government, so neither is long enjoyment the only reason why it would be hurtful and therefore wrong to violate the existing distribution of property. The existence of society depends on the existence of property, for no man would work if the fruits of his labour were not secured to him, and no one would take any care of anything if he had no permanent and undivided interest in it. The general good accordingly requires, that property should be inviolable, unless where the general good requires that some partial exception be made to this rule. The right therefore depends upon Expediency; and to say that it depends upon Prescription or long enjoyment is no more explaining the origin of the right, than to say that it depends upon men's bodily force in defending their own, or upon the sentences of courts of justice, or upon the officers who carry those sentences into execution.

It is usual to say, that the right of Property arises from Labour —from the natural rule or principle that all men have a claim to what they have made their's by working for it,—which, however, is only another way of stating the question, and leaves us still to explain why such a working should confer such a claim; and this we can only do by recurring to the principle of Expediency; not to mention that this theory would only apply to the first owner, the labourer himself, and in no way explains the right of those to whom he transmits it by descent. Many have thought they solved every difficulty by observing that, in the beginning of society, all things were common to all; that the land, for miles, belonged to no one; but that each man took possession of a piece, and cultivated and defended it, so as to make it his own. This, again, is only stating the same thing in a somewhat, and but a little, varied form; and, at all events, it gives no solution whatever to the question which immediately arises—Why should they who never lived on, or cultivated, or defended, the spot of land, have any right to it after the first occupant's decease? This can only be answered by referring to the necessity which exists of a fixed rule, and of property being

distributed in a certain known way, and secured to different possessors, and the innumerable mischiefs which would result from violating this rule, or in other words, not recognising the right of property. The general good is the foundation of the whole argument; and, accordingly, as often as that is thought to require restrictions upon the use or the transmission of property, the law interferes, and restrains the enjoyment, or directs the transmission. At an early period of our history men were not allowed to dispose of their real property by will, except by the custom of particular places; and until the reign of Charles II. they could not devise the whole of their lands. In Scotland at this day no will, but only a deed of conveyance framed in a peculiar manner and on the same principles with a sale, can dispose of landed estates after a proprietor's decease; and for some time before his death he cannot effect it at all, unless he is in health, and enabled to appear in public. Formerly in England a person could not by will dispose of more than a part of his personal property; and this law still prevails in Scotland. In other countries there are similar restraints; and in France a person is compelled to make a certain distribution of his property among his children—partly in order to provide more equally for them, and partly from the political consideration of preventing any growth of an aristocratic order, by the large fortunes which Entails accumulate and keep together. In all these cases the same views of the general good restrain the right to property, or rather prescribe a line of actual possession, beyond which men have no right of property at all, and vest that right in others to whom it is deemed more expedient that it should belong.

Thus we see that through the whole system of society Expediency, or a regard to what is for the general benefit of the community, is the only governing principle, and the only solid foundation of all rights. The people must thus be the great object in view whenever we inquire as to the rights of the ruler and the duty of the subject. For the benefit of the people it is that government exists. Whatever was its origin is wholly immaterial. Violence, fraud, gradual and cunning encroachment on the one hand, and the submission or yielding to a superior and irresistible force on the other, may have given rise to the governments actually established; and a continuance of force and

of contrivance, and of fear and despondency and mutual distrust among the discontented, may support them still. But the reason why they should be allowed to exist, and why they should be even cheerfully supported, is the benefit they confer upon the people, and the necessity of some system of rule for managing the people's affairs. The theorists of the seventeenth and early part of the eighteenth century, and the Legislature at the Revolution, who derived everything from a supposed Contract originally made between the parties, came by that erroneous mode of reasoning to the same practical conclusion to which the plain and obvious doctrine of Utility or Expediency leads us—that all government is a trust for the people—that kings have no rights in themselves, and for their own sakes as rulers, and beyond those enjoyed by the community at large—and that if they betray their trust by violating their duty, the duty of obedience ceases, and resistance becomes a right and indeed a duty, where the abuses are sufficient to justify encountering the evils of the struggle, and where the prospect of success in resisting is very much greater than the risk of failure.

It may at first sight strike some persons that the doctrine which we have now laid down respecting the ground of obedience, and the right of resistance is dangerous in its tendency and may beget a disposition to loosen the foundation of government, by engendering a proneness to speculate upon the chances of successful rebellion. But nothing can be more untrue. The doctrine, if received at all, must be taken as it is and with its limitations. The right to resist an established executive government is only asserted when that government has broken the laws, and therefore deprived itself of all title to claim the obedience due by the laws; or when the laws, which were made in different times, and adapted to other circumstances, have become a source of misery and injustice to the whole or the great bulk of the community—or when, without any change of circumstances, they are thus cruel and mischievous, and when no hope exists of their being mended peaceably by the forms of the constitution, the rulers pertinaciously clinging to them as a source of benefit to the few at the expense of the many; and even in such circumstances as these the doctrine does not justify resistance, unless the breaches of the law by the rulers are so grievous, or the defects in the constitution are so hurtful to public happiness, that

it becomes far better for the people to encounter the evils of civil struggle than to continue suffering under the existing order of things. No nice calculations—no mere turn of the scales—no petty balance of profit over loss—will justify us in arriving at this conclusion. There must be an existing evil generally felt, directly and sensibly pressing upon the community at large, and so great as to leave no comparison or doubt that it is worth while to get rid of it at the cost of a struggle with the rulers of the state and those who are always sure to take their part. Nay, even then the doctrine does not justify resistance, unless it is also clear that the chances of success are decidedly and very decidedly greater than those of failure, so as to leave but little risk of the government prevailing. Thus guarded, the doctrine surely can never be said to encourage rash and groundless attempts to work by violence an improvement which every sound principle must make every good citizen—every man who regards his own interest—always desire to see accomplished, if it be possible, by peaceful and lawful means.

That the doctrine, as we have stated it, is sanctioned by writers of the most unquestionable attachment to established institutions both in the State and the Church, by the authority of the most eminent statesmen, and the conduct of the purest patriots, and finally recognised by the acts of the Legislature itself, as the foundation upon which the constitution of this country is established, there is no doubt at all.

Of writers who have thus stated the doctrine, and with even less of qualification than we have annexed, it might be quite enough to cite one, and that one shall be Archdeacon Paley—a steady supporter of the constitution and of the established order of things, a marked enemy of all revolutionary proceedings, and a recorded opposer of the principles which were in vogue among French politicians and English reformers at the end of the last century. It is the more fit that we cite Dr. Paley's authority, because the work to which we shall refer (his "*Principles of Moral and Political Philosophy*") is the text-book used at one of our Universities, Cambridge, for instructing youth in that branch of science. We shall only add, further, that we do not by any means intend to name this book as one, all the principles of which are equally sound, equally safe, and equally honest.

"So long (says Dr. Paley) as the interest of the whole society

requires it,—that is, so long as the established government cannot be resisted or changed without public inconveniency,—it is the will of God (which Will universally determines our duty) that the established government be obeyed, and no longer. This principle (he adds) being admitted, the justice of every particular case of resistance is reduced to a computation of the quantity of the danger and grievance on the one side, and of the probability and expense of redressing it on the other. But who shall judge of this? We answer—Every man for himself. In contentions between the sovereign and the subject, the parties acknowledge no common arbitrator; and it would be absurd to refer the decision to those whose conduct has provoked the question, and whose own interest, authority, and fate are immediately concerned in it. The danger of error and abuse is no objection to the rule of expediency, because every other rule is liable to the same or greater; and every rule that can be propounded upon the subject (like all rules which appeal to or bind the conscience) must, in the application, depend on private judgment. It may be observed, however, that it ought equally to be accounted the exercise of a man's private judgment, whether he be determined by reasonings and conclusions of his own, or submit to be directed by the advice of others, provided he be free to choose his guide."—(*Moral and Pol. Phil.*, Book vi. Chap. 3.)

Again, it is not merely the right to resist which he asserts but the duty:—"It may be as much a duty," says he, "at one time to resist government as it is at another to obey it—to wit, whenever more advantage will in our opinion accrue to the community from resistance than mischief." And he afterwards enumerates all the points usually reckoned fundamental, and which are said to be unchangeable; as the family of the prince—the order of succession—the prerogative of the crown—the form and parts of the legislature,—all these, he says, are just as much to be changed as any other laws "whenever expediency requires, either by the ordinary act of the legislature, or, if the occasion deserve it, by the interposition of the people." "Now those points" (he adds) "are wont to be approached with a kind of awe; they are represented to the mind as principles of the constitution settled by our ancestors, and, being settled, to be no more committed to innovation or debate;—as foundations never to be stirred,—as the terms and conditions of the social compact to which every

citizen of the state has engaged his fidelity, by virtue of a promise which he cannot now recall." But all this he treats with great contempt—observing that such reasons have no place in his system. (Book vi. chap. 3.) We may safely assert that nothing which we have laid down goes beyond these doctrines of Archdeacon Paley.

The language of Mr. Justice Blackstone, though more wary and cautious, is not substantially different as to the right of resisting. He admits the absurdity and tyrannical tendency of the doctrines of Prerogative held by the Tudors and the Stuarts and their adherents. He describes their effects on the people by the remarkable expression that they awakened the "sleeping lion." "The people" (he adds) "heard with astonishment doctrines preached from the throne and the pulpit subversive of liberty and property, and all the national rights of humanity. They examined into the divinity of the claim, and found it weakly and fallaciously supported." He then says that, finding they had ability to resist it, they did, and obtained some successes over James I.; but these were by parliamentary means and by petitions, so that they were obtained with the king's consent—though that was certainly influenced by the strong spirit of opposition shown in parliament, and with which the country at large sympathised. But, in treating of the restored government under Charles II., and the Revolution of 1688, the learned judge says, "The people, before the Revolution, had sufficient power remaining in their own hands to assert and preserve their liberty, if invaded by the royal prerogative. For which I need but appeal to the miserable catastrophe of the next reign. For when King James decided on the attempt to enslave the nation, he found it was beyond his power; the people both could, and did, resist him; and, in consequence of such resistance, obliged him to quit his enterprise and his throne together."—*Commentaries*, B. iv. c. 33. Now, though Oxford does not teach Paley's Moral Philosophy, Blackstone's work was originally delivered as a course of lectures in that university, and both Cambridge and Oxford still teach it to their youths.

Nor do these writers confine themselves to mere speculative statements of their doctrine. Hear how Dr. Paley applies it to use in a lecture to rulers. The first inference which he deduces under the expressive name of "Cautions" from the principles of

government is in these words—"Let civil governors learn from hence to respect their subjects; let them be admonished that *the physical strength resides in the governed*;* that this strength wants only to be felt and roused to lay prostrate the most ancient and confirmed dominion; that civil authority is founded in opinion; that general opinion, therefore, ought always to be treated with deference and managed with delicacy and circumspection."—Book vi., c. 2.

The soundest political reasoners, and those men whose public conduct has been the most approved in modern times, have held the same doctrines. All the greatest patriots of the seventeenth century, from the time of James I., when the contention for liberty against arbitrary power began, down to the settlement of the constitution in 1688, maintained the right of resistance, some with more, some with less of qualification. It is the main distinction between the two parties of Whig and Tory, into which statesmen and their followers have for about a century and a half been divided by name, but for eighty years longer in the scope and substance of their opinions. These names or nicknames were invented in Charles II.'s time, and were taken from the appellations (*Whiggamore*) given to a class of religious and political fanatics in Scotland, and a banditti (*Tory*) who infested some parts of Ireland. But ever since men began from the progress of political knowledge, at the end of the sixteenth and commencement of the seventeenth centuries, to speculate upon the nature and foundations of government, both learned writers in the closet and statesmen in public life embraced the two opposite opinions which for so many ages have divided and distinguished those parties—one holding the government to be a trust for the people, and to exist only for their behoof, with the consequent position—an immediate inference from the former—that resistance is lawful on a gross violation of duty, and with a fair prospect of success;—the other regarding government as belonging in part, if not in the greater part, to rulers for their own behoof, and wholly unaccountable to any power on earth; and deducing from thence, logically enough if the premises be admitted, the inference, that no degree of misrule, no breach of law by the governors, far less any degree of imperfection in the constitution

* These are Dr. Paley's Italics.

itself, can ever justify resistance on the people's part, whatever sufferings they may endure, and whatever probability there may be of success in the struggle. This latter doctrine has been usually called that of "*Passive obedience and Non-resistance*," and it was held in its utmost extent by the royalist party in the disputes which began during the reign of James I., and was continued down to the period of the civil wars in the reign of his son, Charles I., to which wars the discussion led the way.

With various modifications the same principles have been maintained by the Tory party ever since, although of late years they have been concealed by the few who have not abandoned them. But an exception was in one instance allowed, even by this party. When James II. endeavoured to overthrow the established religion, as well as the liberties of the country, the church very generally took part with the Liberal or Whig party, headed by the Prince of Orange afterwards William III.; and the Universities even melted their plate to aid the cause of resistance. When the fear of Popery was over, the Tories recurred to their old principles, and hence their strenuous opposition to the proceedings recommended by the Whigs, and to the principles which were stated in the resolutions of the Houses, and the acts of the Convention Parliament, as the ground of the new settlement of the crown. Holding that the crown never could be forfeited, nor the king called to account, the Tories considered James II.'s conduct, chiefly as to religion, in the light of a disqualification resembling infancy or lunacy, to which they likened it; and they held that it became the duty of the Estates, in Convention assembled, to provide for the temporary vacancy of the throne, or rather for the temporary suspension of the royal functions, by appointing a regent to administer the government in the king's name, in order that upon his death his son might succeed, or that the king himself possibly might resume his functions upon a declaration by the parliament that he had been restored to his capacity of governing by renouncing the errors of Popery. In case his son should, as was admitted to be very likely, follow in the same path, then the regency was to be continued. The Whigs justly exposed this most absurd and even ridiculous plan. They asked how the resemblance of lunacy or infancy could hold good here, when in the one case the regent is to rule only in the infant's or lunatic's name, but on the sup-

position either that he is carrying his will into effect, or that there exists no royal will at all—while in the other case the royal will is expressed daily, and distinctly, and loudly, in hostility to the new government, whether of a king or a regent, and is backed by a large party both at home and abroad? They showed with irresistible force of reasoning the inevitable practical consequences to be dangerous in the extreme, and the speculative results equally absurd, of such a proposition—that no one could be convicted of high treason for levying war in the name of James II. against the regency, because his actual authority could always be produced, and the offence must be stated as committed against his person and government—and that the exiled family would be all the while supported and assisted by their adversaries acknowledging, in every act of their administration, the validity of its title, and the frailty of their own.

The triumph in argument was complete, especially when men recollected how closely this principle of considering the king incapable resembles that of the Commonwealth, which affected to make war on Charles I.'s person by his own authority; and how precisely similar was the conduct that must flow, and the consequences that must ensue from it, unless the regency should suffer the Jacobites to overwhelm them without any resistance. But the numbers who supported the proposition of a new king were far indeed from bearing any proportion to the strength of the reasoning urged in favour of that course. In the Commons the majority was larger; but in the Lords, where the debates were much more elaborate, learned, and able, the decision in favour of a king as against a regent was only carried by two voices in a house of one hundred members; so great was still the weight of the Tory party, and in the country they were probably more numerous. This accounts for the concessions made to their scruples and prejudices by the Whigs. Although the original contract, and James II.'s breach of it, are declared explicitly by the resolutions of both Houses, yet it was, after days of debating, added, that he had "*abdicated;*" and, after the Lords had rejected by a majority of eleven the vote declaring the crown vacant, even where the vacancy was rested on grounds (one of which was the abdication, in order to save the scruples of the Lords) that House only concurred in the resolution after a pro-

tracted conference and debate with the Commons, who finally refused to abandon their position.

It is necessary to pause for a moment in giving this sketch of the Revolution principles and history, in order to remark that, however triumphant the Whig arguments were upon the practical question of a king or a regent, their reasonings on the Original Contract, and their deduction from thence of the right of resistance, were far from being equally successful. They were unavoidably tainted with the vice of that unfounded theory, and it led to great and manifest absurdities. How indeed is it possible to contend that a contract has been broken when we have no knowledge whatever of its terms? Let James II. have acted ever so unjustifiably, what condition did he violate? That protection and allegiance are reciprocal rights and duties is certain; and if the contract means anything at all, it means that the sovereign is bound to protect his subjects, in consideration of their allegiance to him. If, on the other hand, the contract is supposed to consist of whatever stipulations and whatever obligations are most for the benefit of both parties, or most required by the interests of the people, the object of all governments, it is plain that this makes the contract resemble nothing like a fixed bargain at all, but consist of whatever may at any time be believed by the bulk of the community most for its benefit; in other words, there is nothing like a contract at all, and the whole is reduced to precisely the same ground taken by us above, in opposition to Mr. Locke's and Lord Somers's theory, namely, the ground of Expediency, or the general good. But if the Whigs had omitted all reference to the original contract, and had rested their argument simply upon the ground of the general good, which requires that the protection of the prince and the allegiance of the people shall be reciprocal duties, their reasoning on this part of the question would have been as triumphant as they believed it to be on the other. Let us return to the events of the Revolution, 1688.

These proceedings, in which Lords Nottingham and Clarendon (son of the chancellor and historian) supported the Tory doctrines, and Lord Somers then a commoner with other venerable patriots, took the Whig side, prove the doctrine of resistance, as we have stated it to be, that upon which rested the Revolution

of 1688, and the title first of William and Mary, then of Anne, and afterwards of the family of Brunswick now on the throne. For the use of the word "*abdicated*" can no more alter the nature of the transaction than it could affect the arguments of the Whigs who prevailed; certainly it never could be seriously maintained that James II. had voluntarily resigned when he was, by both the rebellion of his subjects, the desertion of his army, and the invasion of a foreign Prince, driven forcibly from the country. The only voluntary acts he had done were his offences against the people; and if because of these he was voted to have abdicated, when he had never dreamt of any such thing, this was only saying in other words that he had forfeited the crown by his misconduct. That immediately after William and Mary's death without issue, his other daughter, Anne, was taken for Queen, makes no kind of difference; because he left a son, who afterwards became the Pretender. It is true that the next branch of the family was taken after Anne's death, viz., the Electress Sophia's children—the Hanoverian family; but this was setting aside the reigning branch, and giving the crown to another. Therefore the Revolution of 1688 was both in name and in substance a dethroning of one king and choice of another in his room. It was a successful resistance to the king on account of his misgovernment; and it proceeded upon the principle that such resistance is justified by extreme aggressions on the part of the prince, and the impossibility of obtaining redress in any other or any more regular and peaceful way; although it also proceeded upon the wise and salutary principle of making no greater alteration in the order of succession than the exigencies of the case required.

The question of Resistance, although seldom mooted in earlier times, was yet not wholly unknown even in the earliest ages of the constitution. At the beginning of the fourteenth century, in the reign of Edward II., it must have occupied some attention; for we find it adverted to in the Act attainting the De Spencers, that Prince's favourites. A principal charge against them was their propounding a bill, which declared allegiance to be due less to the Person of the prince than to the Crown, and that on his not redressing the people's grievances force might be used towards him for breach of his oath.* Except that this rests the right of

* The words are "*et ses ligès sont liez de governer en eide de lui, et en défaut de lui.*"

Resistance on the oath instead of a supposed original compact, we have here as early as the year 1314 the very doctrine of 1688; and it is impossible to deny that, as far as regards the fact, the earlier doctrine is better founded than the later.

Having stated the principles upon which government and the duty of obedience is founded, we shall, before proceeding with the proper business of the present Political Series, shortly comment upon the party divisions which have arisen out of opposite views taken of this subject. This is not only a fit conclusion of the fundamental doctrine which we have been considering, but it is necessary as an introduction to the subject of government in detail, because we shall have constant occasion to consider the opposite views, taken by different parties, of these practical matters.

The family of the Stuarts pass for the great patrons of the High Tory doctrines; but this is more in name than in reality. The Tudors held more tyrannical principles of the same kind. Henry VIII. and Elizabeth tolerated resistance, or the bare mention of it, yet less than the Charleses and the Jameses; and the language held both by the father and daughter to the House of Commons, upon occasion of the most peaceful, respectful, and even humble opposition to their wishes, is more like the words of a prince threatened with actual rebellion than the answer of one who had received most dutiful, though somewhat displeasing, addresses. But James I., being a scholar as well as King, must needs argue as well as oppress; and, instead of resting his claims upon the force of armed men, he chose to place them upon the ground of reason also. Discussion and examination, to which men were thus, as it were, invited, became inevitable, and the pretensions of one party were submitted to the scrutiny of the other, over whom the prerogatives were claimed and asserted. Men found that the rights arrogated by the King were wholly intolerable in themselves, and utterly inconsistent with all reason. The King and his partisans alleged that Kings rule by divine right; that they receive their power, with their commission, from God; that they exercise it accountable to Him alone; and that to resist them is to fly in the face of Heaven. They found zealous and not disinterested supporters of their extravagant positions in the Established Church; and as James had begun his public life in Scotland, a country where there prevailed in the Church Government strong republican feelings, the effects of which he had once and again experienced,

he became in England a warm friend to the order of Bishops and prone to admit the doctrine of the Church so ingeniously contrived by its prelates, "*No Bishop—No King.*" The alliance between the Hierarchy and the Crown thus became consolidated.

This alliance, of which we shall hereafter have occasion to treat more at large, has always been reprobated by the best friends of the constitution and by the soundest supporters of the church itself. Dr. Paley shall here again be our instance and our authority:—"The single view," says he, "under which we ought to consider a church establishment is that of a scheme of instruction—the single end we ought to propose by it is the preservation and confirmation of religious knowledge. Every other idea and every other end that has been mixed with this—as the making of the church an engine, or even an ally of the state; converting it into the means of strengthening or of diffusing influence; or regarding it as a support of regal, in opposition to popular, forms of government—has served only to debase the institution, and to introduce into it numerous corruptions and abuses."—(*Moral and Political Philosophy*, Book vi. c. 10.)

These pretensions of the first Stuart king—adopted by his successors, but combined by the last of them with a devotion to the Roman Catholic religion—formed the fundamental principles of the Tory doctrine. That party not only held the opinion of Divine Right and of Passive Obedience, but also of the indissoluble union between Church and State. "High Churchman" and "High Monarchy Man" became synonymous terms. "Tory" implied both the one and the other; and the watchword of the party was "Church and King!"—a cry of a political nature, and not of a religious.

The Whigs held an opposite course. They regarded the people as the real source of power. They admitted that, in a certain sense, a king, and in the same sense nobles in an aristocracy, and the president or consuls or other governors chosen by the people in a democracy, hold their power from God, and may thus be said to govern by divine right; and that, in this sense, the powers which be are ordained of God, according to St. Paul's expression. But this, they contended, only means that God permits such rulers to govern the affairs of men, as he is pleased to permit all other things, some for good

and some for evil, which exist in a world created by his power, maintained by his providence, and subject to his control. In the same sense every inferior officer or minister, from the highest to the lowest, is ordained by God, and may plead a divine right to his office. Dr. Paley says, you may just as well speak of the constable's divine right as of the king's; and a constable who had violated his duty might as well object to the justices or the judges punishing him, by setting up his heavenly commission. So might any wrong doer—nay, any animal from a wild boar to a rattlesnake—plead exemption from the exterminating huntsman or destroyer of vermin—so might the gangrene from the surgeon's knife. All these things are in the order of nature, and parts of the plan of Providence; but all of them are subject to the visitation of man's subordinate power and wisdom, which forms also a portion of the same great system. The doctrine of divine right, if carried to any practical consequences, like those deduced from it by the Tories, evidently becomes the most preposterous of all imaginable theories; for it gives absolute impunity, complete irresponsibility, to the very men who are, of all others, the most constantly solicited to wrong doing by the habits of their life, the nature of their education, and the temptations of their position. It at once breeds them up in the disposition to commit any crime the most extensively pernicious, and covers them with impunity. The Whigs therefore resisted this doctrine in both its foundations and its consequences. They made war on Charles I., and they drove his son from the throne. They founded a new dynasty upon the principle of resistance; and they again, in the American war, held the same just doctrine on the grievances of the colonies. They continue to hold the like principles at the present day, to apply them in the case of their own and of all foreign nations, and to deduce from them the people's right to be well and justly governed, while their adversaries, though they have exceedingly lowered their tone, resist habitually all change and consider that the rights of the governors are something belonging to them in their separate capacity, and not merely as trustees for the people.

We have adverted to the modifications which the high Tory doctrines have received in the course of time, in the progress of rational discussion, and, above all, we may add, from the turn which events have taken in favour of the many, and against the

pretensions of the few. With all the veneration for royalty, which marks our High Church and King party, the most enthusiastic of them would hardly now say, even in a public meeting —much less in a grave-written discourse—least of all in a scientific treatise,—that "kings are mortal gods on earth," unto whom "the living God hath lent his own name as a great honour," or denounce "whoever honour them not, as next to Atheists, wanting the fear of God in their hearts." And yet these were the very words of one of the wisest of men two centuries ago. They are Lord Bacon's own expressions in his Apophthegms. Not that he was ignorant of the crimes and the defects of kings, for he elsewhere has said that "they are, of all men, they to whom God is the least beholden—he doing the most for them, and they ordinarily the least for him."—*Essays* vi. 323. The lovers of pure monarchy are certainly content to rest its claims upon far more humble grounds than those occupied by the Stuarts and their supporters. But their fundamental principle is the same, and its consequences are as fruitful as ever of evil. They will never give up the notion that kings have an interest of their own, which is quite apart from their trust, and which is to be consulted for the sake of the King, and not of his subjects. By this view all their reasonings are warped in everything that concerns changes attempted in our institutions. The people's benefit is not to be consulted, unless it can be obtained without any sacrifice on the part of the crown. This feeling, more or less avowed, pervades all their sentiments—biasses all their opinion—regulates all their conduct, and one more fatal to good government and to public improvement cannot well be imagined. It is for strenuously resisting this principle that the Whig party has chiefly entitled itself to the proud appellation of *popular*, and, generally speaking, has been considered as the advocates of the country.

We have stated that the People is the real origin of all power —that is, not so much the quarter from whence it originally proceeded, or which conferred it voluntarily on rulers, but the party whose acquiescence supports it, allows it, suffers it, and whose acquiescence is obtained by a regard to the common interest and the general expediency—the party for whom government exists, and for whose good alone it has any right to exist—and we have

from hence deduced the maxim that the people's advantage is the guiding rule for deciding on all questions of state.

But although this maxim is generally admitted, it is acknowledged by different men and different parties in various ways. The truth is, that all admit that the people ought to be considered by those who administer the government. But few reflect that it is the only consideration which ever ought to enter into our mind in weighing one measure or one institution against another. That the people ought to be well and cheaply governed all allow; but the people ought also to be as well governed as it is possible, and at the cheapest possible rate. They are not to be thankful for any one improvement, for any one privilege, for any one saving which any government may make, while any institution remains unreformed—any right is withheld —any expense, not absolutely necessary, is incurred. This is the great truth which modern times have taught, and which daily experience illustrates. The people ought to have the greatest liberty they can safely enjoy, and the cheapest government that suffices to regulate their affairs. It is a right which happily is now understood by them, and the sooner their rulers learn it and comply with it the bett

CHAPTER II.

FUNDAMENTAL PRINCIPLES OF GOVERNMENT.

(Concluded.)

Necessity of a Supreme Power in every State—Explanation of the phrase Supreme Power—Its division into Legislative, Executive, and Judicial, of which the first comprehends the other two—The various ways in which this Supreme Power may be established, distributed, and exercised; forming the difference between one Constitution and another—Test of a Government being good, does it secure free laws at a cheap rate both of expense and subjection?—The same Constitution may not be the best for Countries in different circumstances—Threefold division of Government, into Monarchy, Aristocracy, and Democracy—These forms are often mixed together, though the mixture is sometimes only apparent—Manner in which one form degenerates or rises into another—Progress of Education in every people fitting them for self-government—The things in which such Education consists—Consequences of it may be to prevent as well as to occasion a preference for Republican Institutions—Illustrations of this from the conduct of the people, in cases where they have a direct interest—Error of deducing power from the people as if they ever actually conferred it—Doctrine that they are the object of all Government, and that Rulers have no separate or permanent rights—Erroneous opinions of Mr. Burke on this subject—Principle of Representation—Greek Republics—Montesquieu.

We have now explained the grounds upon which government is advantageous, indeed essential, to every community, and upon which it therefore becomes the duty of all its members to obey the supreme power of the state. We have also shown that the public good constitutes the sole claim of the rulers to exact obedience, and that all their powers and privileges, and everything which they possess beyond their private property, and beyond the rights which they have in common with the rest of the citizens, belongs to them for the benefit of the community—in a word, that the good of the people is the only object to be considered in the arrangements of government. This fundamental doctrine is the test by which every institution must be tried; and every institution is to be supported or condemned according as it is found sufficient to answer its purpose of promoting the general good, or wanting in this respect. We are next to examine the various ways in which power has been held or distributed and exercised—in other words, the different kinds of Constitution or Forms of Government which exist, or have existed in the world.

In every state it appears, from what we have already shown, that there must somewhere or other be a Supreme and Sovereign power—an authority somewhere vested, and exercised in some specified manner, but in itself absolute and uncontrolled. Governments all agree, and, from the nature of the thing must all agree in this; and no form of polity can be conceived which does not include an absolute power in some part of its arrangements. For suppose there is a system of appeals from one officer to another, from one council to another, or from one body of the people to another, still there must be one, the last of all, from which no appeal can lie. Or suppose a system of checks so contrived that no one person and no one body can act without the concurrence of some one or more others; then the supreme power is vested in the mutually controlling or checking bodies, and the sovereign or absolute will is that of all together. Or, lastly, suppose that the ultimate power of control is vested in the whole community acting by a majority of its voices, then the absolute power is exercised by that majority in the last resort. In every case, therefore, an absolute and uncontrolled power exists in every community, and forms the basis of every kind of government.

It is equally clear that, although the manner in which this absolute power shall be exercised may have been pointed out by rules established in each community, yet those rules may at any time be altered or repealed and a new set substituted in their place; nay, that an exception may on any occasion be made in their application, and yet the rules continue to be followed in every other case. These are not laws which bind a power in itself supreme, but only principles which have been laid down by itself for guiding its own conduct; as a man free to use his time or his money, or his bodily health and strength, in whatever way he pleases, may resolve to follow a particular course of study, or other exertion, or to adopt a particular plan of spending his fortune, from which he may at any time deviate in whole or in part, and pursue a totally different course, adopting altogether different principles. Thus nothing on earth can fetter or bind the exercise of the supreme power in any state; and whatever plan has been adopted for its exertion may at any moment be changed.

In like manner the exercise of this power is attended with no

responsibility. Whoever is clothed with it, whatever body or individual the absolute power resides in, must of necessity be unaccountable. Thus, if it is given to a single person, he is answerable to none for its abuse. If to a senate, that is the ruler, and answerable to none. If to a combination of persons or of bodies, they together forming the supreme power, are not to be questioned in the exercise of their functions by any human tribunal. A confusion is often occasioned on this subject by using the words *absolute* or *supreme* power in a sense different from that in which we are now employing them; they are sometimes taken as designating only a functionary, or a body clothed with very high attributes, yet not with the ultimate and supreme authority, as the chief magistrate in a free state may be said to govern, and yet he may be subject to the laws; but then he has not the absolute or highest power; he only exercises certain functions; and if he is under the dominion of laws which he does not make himself, but must have the consent of others before he can pass them, the absolute or supreme power resides not in him, but in the combination of him and those whose consent is required for legislation.

The supreme power thus existing in every state is generally divided into three branches—the Legislative, the Executive, and the Judicial. It is more strictly correct to consider the legislative as alone supreme, because whatever authority has the power of making laws, has of necessity the power also of directing and controlling their administration and their execution. Nevertheless there is some convenience in the division, and the different provinces are sufficiently marked to justify us in considering them as separate.

It is necessary that the laws of every community should be framed by some one authority residing in a known part of the state, and acting in a known and uniform manner; otherwise the people cannot know whom to obey, nor what from time to time are the changes in the rules that are to govern their conduct. In small states the people themselves may exercise this important function. They may at stated meetings, or at assemblies convened upon any sudden emergency resolve upon any rule for guiding their own conduct; and this, until they alter it, becomes the law and is binding upon all, as well those who consented to it as those who opposed it and preferred another, and upon

those, as women, infants and persons incapacitated by disease, whose consent was not asked. But experience having soon shown that this simple plan was inconvenient, and indeed impossible, where the people were so numerous, or the territory they inhabited so large, that they could not meet in one place, or, meeting in one place, could not deliberate freely and fully, various contrivances have been fallen upon to retain in their own hands as much of the power of making their own laws, as is compatible with good order and full discussion. Usurpation, too, has almost always interfered. One man, or set of men, or one or more bodies in the state, have seized upon this power and excluded the people, more or less, from a share in the exercise of it. We shall presently see how these arrangements have been made, and what improvements the experience of former ages has enabled us to effect in modern times upon this most important of all the concerns and operations of men. It is for the present enough to observe that, in one form or another, this Legislative power must exist in all communities, and that it constitutes truly the Supreme or Absolute authority in the state.

There is an equal necessity for some provision to carry the laws into effect—to execute what the legislature has ordered—and this is termed the Executive power. It therefore includes the ordinary administration of the affairs of the community; the representing it in all intercourse with foreign nations; the providing for its police, and the preservation of the peace; superintending the administration of justice in its other branches; commanding the forces, and otherwise providing for the defence of the country; and levying the revenue required for supporting the expenses of the state. All these functions are Executive, and may be united in one person or one body, or they may be distributed among several. Nay, the whole Executive functions may be united with the Legislative; or a portion of the Executive may be kept in the hands of the Legislature. But still the Executive functions and the powers required for discharging them, are different from the Legislative, and are equally necessary for the conduct of public affairs.

We have seen that one of these Executive functions is to provide for the police, that is, the discovery and arrest of offenders against the law, and for the other judicial proceedings—in a word, to provide for the administration of justice; for giving

each man the benefit and protection of the laws; and for punishing offenders against them—and this, like any other Executive office, may be separated from the rest. The Executive authority in the state may administer Justice, or may delegate its administration to others: so the Legislature may itself exercise all the Judicial functions or a portion of them. In rude states of society, the chief was both lawgiver, executor of the law, and judge. In all but rude states the chief Executive power in the community has been accustomed to appoint judges, who should in its name administer justice; and in refined states, the supreme or controlling Judicial power is often retained by the same body which exercises the Legislative authority, and thus retains in its own hands this branch of the Executive power. There is no branch of administration more important to the well-being of the community, under every form of government, than the Judicial—none which more regards the individual comforts and almost existence of the inhabitants—and we shall see how often it has happened that a system of judicature better contrived than the rest of the political constitution of a country has reconciled men to the grossest defects in the government under which they lived, and prevented them from overthrowing it, or by some violent change putting an end to its great abuses. It has produced this effect by affording the grand practical benefit of equal justice; that is, of protection to life and property.

Now, by the various ways of establishing, distributing, and exercising these powers—Legislative, Executive, and Judicial—but say only Legislative and Executive (for these plainly comprehend all), the different forms of government, or kinds of constitution, are distinguished from one another. Their merits and defects wholly depend upon the tendency of each, to secure the most wholesome kind of lawgiving, the most beneficial administration of the laws made, and the most advantageous use of the resources of the country, for the great purposes of government and defence; and as the great ruling principle of all such arrangements of power must always be the promoting the happiness of the whole community, the test by which the merits of every constitution must be tried is a plain and simple one,—Does it take from the people more liberty than is absolutely necessary for the well-administering of their affairs? Does it take from the people more of their property than is absolutely necessary

for supporting the costs of a system adequate to afford them protection? In a word, does it secure to the people, and at the smallest expense, both of money and of subjection, the best laws, the purest administration of those laws, the amplest security at home, and the greatest safety from without? A government is perfect of which the affirmative can be truly stated in answering those questions, and it is better, or it is worse, according as it approaches near to that standard or falls short of it.

But although this is the principle upon which all governments must be, or at least must purport or affect to be, founded, and this is the test by which their merits must be tried; it does not, therefore, follow that one form is always the best, and for every nation, and in all circumstances. It may, for example, very well be, that reasons of a satisfactory nature should appear to prove a particular arrangement of the powers in a state more advantageous, generally speaking, than any other. Thus, there can be little doubt that a popular form of government is advantageous to the country where it is established, by giving the community security against abuses; that it also gives the inhabitants of the state security against sudden shocks from within; and that it enables the government to provide against foreign aggression, by making the resources of the nation easily available to the public defence. Suppose we were to lay down upon grounds like these, no doubt true in themselves generally, that a popular government tends to secure the people the best laws, the purest administration of them, and the greatest safety against all internal disorder and all attacks from without, the proposition, as a general doctrine in government, would be true; and yet it might easily happen that it would be inapplicable to the circumstances and situation of many countries, and that consequently in these its truth would fail. For the people might be wholly incapable, from their general ignorance and barbarous manners, of bearing their part in the administration of their own affairs; or they might, though refined and well informed in many other respects, yet be utterly ignorant of political rights and duties, and, from long habits of subjection, wholly averse to exercise any such functions; nay, they might be formed by habit so as to exercise them to their own detriment. Until such a people had learnt a great deal which can only be slowly acquired, and had gained habits of action in the room of their old habits of submission,

the introduction of a popular government among them would be impracticable; but it would also be hurtful, and not advantageous, if it were possible. Nay, it might even prove more the instrument of oppression than the burden of despotic sway under which they had been accustomed to live; for it might remove some of the checks which are found in practice to grow up even under the most absolute dominion. It might substitute the tyranny of several nearer tyrants for that of one more remote; it might let in the domination of a savage mob; and it would, in all probability, end in giving the King more power in practice than he had before possessed, with less of the restraints from good feeling and habits of forbearance than he had before submitted to. So a pure democracy may well be the best government—the one coming nearest the standard—in an extensively-spread and thinly peopled country like the United States of North America, and yet be ill adapted to the thickly peopled and narrow territories of the European nations. Politics is eminently a practical and experimental science. It does not teach us—it does not permit—the universal application of general maxims without regard to circumstances, any more than the science of practical mechanics teaches or permits the engineer to form his machinery upon calculations and figures on paper without making allowance for friction, and the resistance of the air, and the strength or elasticity of materials. The general principles of both sciences are of admirable service; but they must always be applied under the superintending guidance and control of practical wisdom, which consists in knowing where to follow the rule, where to make an exception that shall shut it out altogether, and where to pursue it with modifications and allowances, according to the varying circumstances of each case.

Again, even where we have not only ascertained the best form of government, but find that the circumstances of any given state justify and even require its introduction there, in preference to the existing constitution, it by no means follows that this change should be suddenly effected; and this for two reasons: Not only the resistance certain to be made by parties interested in opposing a change is hurtful and to be avoided, but a gradual alteration of established things is far better, even if we could effect the change by a wish, and without either any struggle or any risk of failure. After things have long been arranged in a certain way, all the parts of the system become adapted to that

arrangement; consequently, a sudden disruption would be hurtful, and impede the very good sought to be gained by the change. Great care, too, must be taken that we observe the real and not the apparent amount of the burdens laid upon the people under different systems, as regards both the restraints imposed on their natural rights and the contributions levied upon their income. Some restrictions look far more oppressive than they really are; and the same thing will prove intolerable in one country which in another would not be much felt; and be easily borne in an early age, while the people could not endure it in a more refined period of society. So in estimating the money-price paid for government, not only its proportion to the national means must be considered, but the mode of obtaining it; and the thing obtained for the money, the kind of service purchased, the necessity of such service in the peculiar circumstances of the case, its adaptation to the general system of polity, and above all its tendency, however costly, to prevent still larger expense or worse mischiefs than any expenditure, must all be taken into the account before we pronounce upon the merits of the system.

With these guards the principle which we have laid down may safely be taken as the one that ought to govern all our deliberations upon forms of government. That principle flows immediately from the fundamental doctrine that all government is for the benefit of the people—for the administration of their affairs at home and abroad, in peace and in war. Whatever form of constitution secures the greatest amount of such benefits at the smallest cost, must evidently be the most desirable; and its introduction into any given nation ought to be aimed at under the guidance, nevertheless, of a due regard to the peculiar circumstances of the country—a consideration which will be found, in the vast majority of instances rather to affect the manner of seeking a change, and the time for making it, than the substance of the question—Whether or not that change is fit to be aimed at.

There can be no greater error than to infer, from the modifications to which we have now been adverting, that therefore it is not useful to examine the principles of governments and the various forms in which they exist, and have existed in the world. As well might it be said that the theory of mechanics is useless to the engineer. From such an inquiry we derive a knowledge of the principles which ought to guide our choice where alterations are wanted, and are both practicable and safe. Nor can

any politician ever be sure that he is placing his measures on safe grounds who has not previously made himself well acquainted with the fundamental principles of the science. To the more near view of these we shall now proceed.

There are three great divisions under which governments, where they are of the simple and unmixed form, may be classed, according to the hands in which the supreme power is lodged. It may be vested in a single person—or it may be vested in a particular class different from the bulk of the community—or it may be vested in the community at large. In the first case the government is called a *Monarchy*, from the Greek words signifying the rule of a single person; *Despotism* (also from the Greek for a master) means likewise the absolute and uncontrolled power of one master, but in ordinary language the word denotes rather the abuse of monarchy than a separate form of it. In the second case it is called an *Aristocracy*, from the Greek words signifying the power or prevalence of the best, or highest classes —literally the best in respect of virtue—but practically the uppermost in point of authority. Where but a few of this class —a select number or subordinate body—has obtained the exclusive control, it is termed an *Oligarchy*, that is to say, the government of a few; but this is rather the abuse of the Aristocratic form than a separate kind of government, as Despotism is the abuse of the Monarchical form. In the third case it is called a *Democracy*, from the Greek words signifying the power or prevalence of the people—and sometimes a *Republic*, from the Latin words, meaning the Commonwealth or people's interest, although the term Republic includes also Aristocracies.

In order that any one of these forms of government should be pure and perfect in its kind, the supreme power should not only be lodged in one of those three manners—vested in one of these three bodies or authorities—but vested in it exclusively and without any control or check, from any other of these bodies. A pure or absolute Monarchy implies that the sovereign should have the whole power, legislative and executive, in his own person, without any share whatever being possessed by any other person, or by any body in the state. If his power is shared, or if his functions are exercised subject to any control or check, the government is no longer purely monarchical, but in some degree mixed, and partakes in part of the other two forms, according as the supreme

power may be shared with, or the control vested in, a part or the whole of the other members of the community—verging towards Aristocracy in the one case and towards Democracy in the other. In like manner, if the Aristocracy shares its authority with the people at large, or allows any check over its operations to the people at large, or to any individual functionary over whose creation it has no control, the government is no longer a pure but a mixed Aristocracy—and so of a Democracy.

It must, however, be kept in mind, that in order to detract from the purity of any of these forms, and to constitute a mixed government, the sharing of power must be real and not merely apparent or nominal—that is to say, the supreme power itself must be actually divided, and not merely an arrangement made voluntarily by the party having the supreme power, and which only subsists during that party's pleasure. Thus, if the monarch in a pure or an absolute Monarchy, appoints a Council to administer any part of his affairs, or to advise him in the discharge of his duty, or to deliberate upon certain affairs and decide respecting them, provided this council derives its whole authority from him, and is removable by him, and he is only bound by its decisions as long as he chooses to submit himself to them, this is no mixture; this does not at all render the monarchy mixed or limited. The Council is the creature of the monarch, and exercises a power delegated by him, which he may at any moment resume. It is his servant and assistant only, his mere creature, having no independent existence, exercising no real control, and possessing no share whatever of the supreme power.

The like may be said of an Aristocracy. No such government can exist at all without delegating its executive powers to individuals, not only as governors of provinces,—for a province may as well be ruled by a body as the state at large,—but it is necessary to employ individuals for the exercise of every branch of executive power in the centre of the State, and in the capital as well as in the remoter districts and localities. Thus, a governor of the capital is required to administer police, to provide for defence, and in general to execute the laws made by the ruling body, and even to carry its will into effect as to the execution of these laws. But the existence of such an officer, and the powers exercised by him, in no degree mixes the Aristocratic form (which we are supposing to be established) with any portion of the

Monarchical principle, because the executive officer is merely the servant of the ruling or privileged order, and has no power whatever independent of them. So a Democracy does not at all approach to a Monarchy by having certain officers of great power and authority appointed to execute the laws; nor does it become at all Aristocratic by having a Council or other body endowed with certain privileges, provided that body is wholly elective, and is chosen by the people at large; and that no class exists in the community possessed of privileges which belong not to the people at large. Thus the Roman Republic, supposing it at any time to have been a pure Democracy, was not the less so because it had two Consuls invested with executive functions; for these were elective, and only held their power by delegation from the people. But it was a mixed or Aristocratic Republic, because there was an order of privileged persons in the State to which no one could belong at pleasure, or into which no one could be enrolled by any act of his own.

This observation respecting an apparent mixture or division of power, where no real sharing of it exists, requires some further illustration, because it is very important in its consequences, as we shall afterwards see.

In a Monarchy, the choice by the sovereign of a council to aid him in his office, or to exercise a portion of his power, does not detract from his power, and does not render the government a mixed one. So the delegation of judicial functions to judges appointed by the sovereign does not make the Monarchy mixed, as long as those judges are removable at pleasure. But if either they are hereditary, or if they hold their offices for life, a very material control exists over the King; and the existence of a body armed with certain powers, and independent of the sovereign, limits his power in one essential particular, and makes the Monarchy not pure and absolute, but mixed. It is, however, unusual to give this name of Mixed Monarchy to a government where no greater control exists over the monarch than that arising from the judicial functions being exercised by judges for life, if those are appointed by the prince. A judicial body of hereditary judges would not render the government mixed in the ordinary acceptation of the term. The mere existence of judges for life—these being first named by the prince—is certainly some check on his power, or his exercise of it, and yet

does not generally obtain for the government where it exists the name of a mixed or limited monarchy. As far as it goes, however, and, strictly speaking, it comes within this description; that is to say, if the sovereign can do whatever he pleases, except that the judges of his own nomination act for life—in other words, if all he is prevented from doing is judging causes in his own person—if he is independent of all other control in his legislative and executive functions, and only restrained by being obliged to judge through persons of his own nomination, even if these are named by him for life—we call it an Absolute, and not a Mixed Monarchy. The limitations arising from this judicial arrangement are plainly little more than nominal, because he may choose such tools as he can rely upon, and has no one to control or watch his choice.

On the other hand there may, and generally does, exist a very substantial control over the Sovereign in Absolute Monarchies—which, nevertheless, is not allowed to make them in common language, mixed or limited. We allude to the existence of a body of men set apart for the exercise of religious duties, and who form what is called a *hierarchy*, or government of holy men or priests. If these are made and removed from their functions by the Sovereign at his pleasure, they have no direct share in his power, and do not at all limit his authority. But if, as generally happens, they are irremovable, more especially if he does not appoint them to their sacred office, they exercise an effectual control over him, because they possess not merely some direct power, but a very extensive influence over the people, and even speak to the Monarch himself in the name of the Deity, armed with the terrors which they derive from the nature of their office. The Sovereign generally takes care to make friends with this order of men, and to gratify them with some share of his authority, at any rate with a share of the possessions which that authority enables him to obtain from his people. Sometimes he makes them still more his tools, and makes their power his own, by himself becoming one of their number—the high or chief priest. But where he is not, the existence of a priesthood affixes limits to the sovereign power—and in reality makes the purest despotism somewhat mixed and partaking of the aristocratic and oligarchical nature, although we do not usually so term it.

Again, the purity of the Democratic form is not diminished, nor the government rendered mixed by the arrangements made for the purpose of enabling a numerous people inhabiting an extensive territory to administer its own affairs. It may delegate for this purpose the Legislative, the Executive, and the Judicial power to individuals as to bodies; it may be satisfied that these should be vested in certain portions of the community, and none remain in the nation at large, except the choice of those ruling portions; and still the government is purely Democratic, and not at all mixed, because an arrangement only has been made for delegating its power to helpers, servants, representatives, deputies, or by whatever name they may be called—because no body or individual exists in the community having power independent of the people—and because the people have not shared their own power with others over whom they have no control, but only deputed others to exercise their authority.

It is thus clear that arrangements made in any of the three pure forms of government for the greater facility of carrying on the affairs of the State, for the easier exercise of the supreme power, do not detract from the purity of each or render the government mixed. Nay, the monarch may be the more absolute, and the nobles the more powerful in consequence of such arrangements—such delegations of authority—and thus each form of government, instead of becoming mixed, may be made more pure by many of the expedients in question. This, however, can only be so long as the supreme body takes care to keep the whole ruling power and the absolute control in its own hands; and as this is not very easy in a long course of time, as human weakness on the one hand and human ambition on the other are apt to suffer and to make gradual encroachments, it has so happened that such arrangements have in many, indeed in most instances, in process of time laid the foundations of separate and independent powers arising within the community, of bodies or individuals springing up which finally shared the supreme authority, and gradually changed the pure into a mixed form of government. All to whom powers are given, for any purpose, have a natural tendency to stretch those powers to other things; all who are intrusted with authority for a time endeavour to retain it much longer. The parties possessed of undisputed power, the established authorities in the State, naturally become careless,

supine, and indolent; so that encroachments are made and suffered in the course of time. Thus, when the sovereign, to save himself trouble, delegated officers to rule in his name, and these acquired influence, they kept the power in their own hands longer than was intended, and they retained an influence after their direct power ceased. A remarkable instance of this occurs in India, where the minister (or Peishwah) of the King of the Mahrattas, once a powerful nation, has become the hereditary sovereign, holding the king in a civil kind of slavery. So in France the Mayors of the Palace for a long period of time exercised the chief power under the names of the kings, who were generally persons of weak intellect and not allowed to govern.

Again, when to help him and strengthen him against the body of the people, the sovereign gave the influence of office and of rank to certain classes, these could not be stripped of the weight they thus acquired when it suited him; and they afterwards used their authority against himself, and thus made encroachments upon his prerogative. Still more when for similar purposes he actually invested either individuals or bodies of men with certain independent privileges, those were afterwards sufficient to raise the privileged classes into a subordinate importance, and they became rivals to the sovereign himself. It is in this way that Aristocratic classes have arisen in pure Monarchies, and ended by obtaining a share of the supreme power, controlling the sovereign and the people, and making the Monarchy mixed, which once was pure and absolute, although we usually confine the appellation of Mixed to Monarchies, where a direct popular control has been introduced, or a direct patrician power is exercised. Still the check is effectual which an independent Aristocracy imposes, and to counteract its power, and limit its further encroachments, has generally been one principal care of the sovereign. It is in this way that in most countries of Europe the prince from jealousy of the nobles who had been suffered to acquire a distinct and independent authority in the state, gave privileges to the towns, and thus created a body of a Democratic nature, or rather of a Democratic origin, but of an Oligarchical nature, to balance the nobility; and when the progress of knowledge and trade, and the increase of wealth among the people, made this body more dangerous than the Aristocracy, the sovereign united with the latter, and converted the Government into

a mixture of Monarchy and Aristocracy—a Government which contrived to obtain almost supreme dominion over the people. But this kind of government, where the privileged orders have no direct share in legislation, is not usually called a Mixed one; it is generally termed a Constitutional Monarchy, to distinguish it from Absolute or Despotic Government.

In like manner, Aristocratic and Democratic governments have changed their nature by encroachments suffered upon the supreme power. Bodies of men have obtained privileges in Democracies, and held them in defiance of the people—thus sharing the supreme authority, and making the government a Mixed Democracy. In fact, hardly any instance, except the recently established Republic of the United States, has been known where this admixture did not happen in a short time after the foundations of the Democratic power were laid, often, indeed, because certain classes have succeeded in recovering the ancient privileges which the establishment of that power had deprived them of. So almost as frequently, both in Aristocracies and Democracies, the officers employed by the State have extended their powers, and, obtaining personal authority, have either succeeded in subverting the original Aristocracy or Democracy, and establishing a Monarchy in its stead, or have divided with the nation or the privileged classes the supreme power, and have thus formed a Mixed Monarchy, or a Monarchy Aristocratic in the one case and Democratic in the other. This is indeed the danger to which all such governments are the most exposed, especially where they are situated in the neighbourhood of other states; for then wars are inevitable: an able Captain extends his personal power during seasons of public alarm, and afterwards by success in military operations, either repelling formidable invasions, or enlarging the bounds of the state by foreign conquest, he is apt to retain his power when the hostilities are over, and by the help of his fellow-soldiers, to establish either an exclusive or a mixed authority in his own person, which he often succeeds also in transmitting to his posterity. This danger to the existence of Republican government is less to be apprehended in proportion as warlike operations from the natural situation of the country, as in North America, or from the improved feelings and principles of the people, as in France and England, become less probable; and this danger to the govern-

ment, as well as all other evils of the Republican form, are sure to diminish in proportion as the people become better educated, and more fit to govern themselves.

In affirming, however, that the risks of intrusting the whole people with power are diminished by the progress of the people in education and self-government, we must carefully advert to the real meaning of the terms. Education comprehends not merely the elementary branches of what on the continent is called *primary instruction*, that is, reading, writing, and accounts: these are but the tools or instruments by which men are enabled to acquire knowledge, and in some sort to use it when acquired: they are the means of being instructed rather than instruction itself. Nor does Education mean, in the large sense in which it has just been used, the mere learning of what is taught in schools and colleges, as the ancient languages, and the different branches of science commonly taught. Moral science, but above all Political Philosophy, must also be learnt and well learnt, before men can be said to be educated for the world and fitted to bear a part in conducting the affairs of their country. The history of other nations and of former times must be studied; the nature of government must be well examined and reflected upon; the experience of our own and of foreign countries must be diligently observed, and the inferences drawn from it weighed attentively and soberly. As any considerable progress in Political learning never can be made without leaving upon the mind of the student a deep impression of the difficulty and importance of the subject, the great dangers to which rash theories expose the state that acts upon them, the yet greater hazards to which the people is exposed that hastily, and prematurely, and without the greatest circumspection, and the utmost deliberation, changes its institutions; whoever applies himself to political study will become aware, during his whole examination of the science, that a superficial survey of its principles and details is as bad as entire ignorance of them, and will have no difficulty in bringing his mind to the task, calmly, soberly and diligently. He will hardly have made a step before he perceives how many confident assertions of interested men, of intriguing and grasping factions, are the very reverse of the truth—how many specious errors are everywhere circulated on the different branches of this science—and how full of danger these errors are. This

will teach him, above everything, to be cautious and distrustful of theories, and of visionaries as well as impostors. The wisdom, indeed the duty of thinking for himself on all questions within his exact knowledge, and which he is capable of resolving, will soon appear manifest, and he will not easily be led away by others, or let them dictate his opinions or prescribe his course of thinking any more than of acting. But he will also soon become sensible of the safety and fitness of listening respectfully to the opinions of the good and the wise; of men whose knowledge is greater, whose experience is larger, whose reason is more powerful than his own. He will perceive that in political, as in all other sciences, it is useful and safe to take the benefit of skilful men's ability and learning, and he will receive their suggestions and opinions with respect, provided he is sure they are honestly given and without any interested bias. A deference to authority will thus be inculcated as both becoming and safe, and he will scorn the folly of those superficial men who, regarding with no kind of respect the great masters of political wisdom whose learning and capacity are the admiration of the world, set up the crude speculations of rash and ignorant pretenders as fit guides of conduct. He will soon perceive and will retain in his mind the wide difference between servilely following in other men's track, so as to become their instruments or tools, and, on the other hand, respecting their wisdom and profiting by their intelligence, and weighing with deference the conclusions to which their experience and reflection have guided them. Nor will the wisdom of those who have lived in other times be ever rejected as a help or even as an authority, unless it is quite clear that the circumstances of the State are changed, and that improvements have subsequently been made which render the conclusions of former ages inapplicable to our own. This is the kind of study which alone can bestow the Education that prepares a people for self-government; and it is not merely the knowledge thus acquired which fits them for the task, but the virtue, the cautious and prudent and self-denying habits both in reasoning and in acting, which spring from enlarged knowledge and long reflection. A people thus educated is disciplined as well as instructed; trained in their feelings and sentiments as well as improved in their knowledge and understanding. Caution and moderation become familiar to them,

and they learn as well when to abstain as when to interfere—when to be passive as when to act. They will know their own province, and never exceed its proper bounds, nor ever incur the risk of doing harm by encroaching upon the province of others. Feeling that the common interest requires each power in the State to exercise its authority uninterrupted, as well as to perform its duties, they will yield obedience even when their own wishes may be thwarted, and their opinions disregarded; and aware that the greatest benefit on the whole results from preserving the general arrangements made for the common good, they will be most slow to seek any temporary or partial advantage, at the cost of lasting and extensive danger or inconvenience.

It was necessary thus far to explain what is meant by a people becoming fit for Republican Institutions by being Educated; but it is also necessary to add, that it by no means follows that their improvement, carried ever so far in any given country, will make them prefer the Democratic form of government to all others. The very contrary may be the result of much political information and long habits of reflection. The adaptation of all existing institutions to another scheme, as the Monarchical; and the great inconvenience and even hazard of changing the system and introducing another to which none of these institutions are at all adapted, will be too manifest to escape their attention. They will have learnt how little names are important in the arrangement of a political system; how insignificant to their happiness are mere theories of government, or plans proceeding upon speculative views of right; and how much it behoves them for their own interest to regard the practical working of the great engine of government. This will very possibly lead them to retain many things against which much objection prevails in argument, and to risk none of the benefits conferred by the constitution already created and in operation, especially if its lesser faults can be remedied, and its undoubted defects supplied. They will thus very possibly be rather the more disposed to retain a Monarchical government in consequence of the progress which they have made in Political Education.

We may form some conjecture as to the effects likely to be produced on the people's views and conduct regarding the frame of the government, when they shall have become thoroughly acquainted with the structure and functions of political systems,

from observing how they can, in a state of very moderate general education, act in those matters—such as a benefit society, a club, a reading-room, or a mechanic's institution—the nature and objects of which they well understand, and the interest in the prosperity of which they individually feel. There is no disposition shown to adopt rash measures; no appearance of indifference to whatever produces solid benefit; no readiness to follow wild proposals, or confide in violent and thoughtless leaders, or, indeed, to regard specious and plausible talkers; and the deference paid to men of general information, of fortune, and even mere men of rank, in all cases where they come into communication with them, is unvaried. They never object to power being lodged in one part of their numbers, or in one individual; they submit to any control, and to any arrangement, however unpleasant, provided they see that it is plainly conducive to the end in view. This is the result of a complete knowledge of the subject and a distinct feeling of their own interest. The only difference between the kind of interest felt in such cases, and the interest felt in the public good by the citizens of a large community, is, that the latter is somewhat feebler than the former. But the immediate fruit of better information, of a good Political Education, must always be to make the student feel the great importance of interests which the ignorant deem remote and trivial; to make him aware that, in the good of the whole state, the interests of all its individual members are nearly concerned.

We have now had occasion to consider the foundations of civil society and the fundamental principles of government; always rather assuming than proving that the good of the people at large is the only end and object of all government. The truth of this is, indeed, so evident as not to require and hardly to admit of proof; and whatever reasoners have denied it, and set up the rights of rulers as having a substantive and separate existence, will, upon close examination, be found to introduce some sophism into the argument, and to confound titles conferred for the public benefit on certain individuals, or families, or classes, with rights, properly so called, belonging to them in their own separate capacity. Thus no one denies that it is accurate in our mixed constitution to speak of the crown's rights, or the king's rights, and the rights of his

royal house; and even to place them in opposition to the rights of other great bodies in the state. But this is accurate, indeed it is properly speaking intelligible, only because the scheme of our polity consists of a king as well as two other estates, and the supreme power is lodged, not in any one or in any two of these three, but in all three together; each acting in its own particular department—whence it necessarily follows that we must regard each one of the three as if it were independent of the other two; and in order to preserve its separate existence, that is, in order to maintain the mixed frame of the government, we must assume the crown, as well as the other two branches, to have rights, and deal with them as if they were separate, independent, and substantive rights. But it would still be the grossest fallacy to suppose that those rights were conferred for the aggrandisement or benefit merely of the party in whom the crown is vested. We might as well hold that the individual members of either House of Parliament hold their privileges for their own private and personal benefit. In truth, every public functionary is said to possess certain rights, but he possesses those rights in virtue of his office, and he possesses them for the benefit, not of himself, but of those for whose sake his office is constituted. There is no possibility in human affairs of making the abstraction which should represent the public apart from the office, or the office apart from the holder of it. Hence we do not generally say that the rights of the office belong either to the public or to the office, though we mean all the while that they do; and we never say that those rights are in the keeping of the public or the office—are to be maintained and protected by the public or the office—because the maintenance or defence of them can only be performed by the individual who holds the office; and it is exactly a part of his official duties to defend those rights. This is really the whole meaning of the controversy on either side; and, like many other disputes, it would have no existence if the parties began by defining the terms they were about to use, and thus come at once to an understanding of the propositions which each maintained.

But, as also often happens, under the cover of the ambiguity left in the propositions themselves, the opposite parties in the dispute never fail to draw consequences from their doctrines—to deduce corollaries from their propositions—of a very different complexion; consequences and corollaries which are wholly irreconcilable with

each other, and are so far from being equally true, that one or other must be false. These inferences come, one of them at least, from the unexplained form of the propositions themselves, and are grounded upon the propositions being supposed to be quite different from what they have been ascertained to be upon explanation. This requires further illustration.

Those who hold government to be established only for the people's benefit, and that the different orders in the state, whether king, nobles, or public bodies, have no separate and independent rights, but that all their privileges are in trust for the country, are quite consistent in concluding that the public interest should alone be regarded in the exercise of those rights, and that individuals clothed with them can only honestly and consistently enjoy their privileges as separate immunities or powers for their own personal benefit, in so far as such enjoyment of them is conducive to the public benefit. But the advocates of the opposite doctrine, who maintain that there are rights in the king, for example, which he possesses paramount to the people and for his own benefit, although wholly unable to support this proposition without admitting that his own benefit means, when explained, the benefit of the state; yet when they come to reason upon their doctrine, and to draw from it practical inferences, altogether forget this explanation or qualification, and treat the rights of the king as belonging to him in his individual capacity, not by virtue of his office, and vested in him for his own personal behoof, nor for the benefit of the community. No greater error in reasoning can possibly be committed. These reasoners confound the political with the personal capacity; they confound the individual with the representative capacity; they confound the beneficial interest with that of the mere trustee; they ascribe to persons a property as their own, when it in fact belongs to others, for whose benefit they are acting as mere trustees. These reasoners find a body, the Community, in the situation of an infant, incapable of acting for itself, and obliged therefore to put its affairs in the hands of individuals who can act as guardians or courts of justice or their officers act for infants: they argue as if the persons thus appointed to supply the defective capacity of the party were themselves that party, and had the whole beneficial interest in the subject matter. They commit even a worse error than this; they find persons appointed

by the community, or in whose appointment the community acquiesces for its own benefit, appointed to manage the concerns of the community, and they conclude that those persons are themselves the parties interested—nay, alone interested. So that the fallacy would not be greater of him who should treat the trustee, as entitled to the estate vested in him for the proprietor; or the guardian, as owner of his ward's property; or the agent, as owner of his employer's rents and profits.

The great names which have sanctioned such an error cannot avail to make it pass for truth. Mr. Burke, whose opinions were latterly much warped by his strong feelings upon the French Revolution, and the speculations to which it gave rise in this country, has derided, as a groundless and visionary notion, not indeed the position that all power is a trust, for that he could not venture in the abstract to deny, but, what really amounts to the very same thing, that kings are trustees for their subjects. He treats the theory as altogether groundless—as a mere modern fancy—that all power is delegated by the people, and held by monarchs under the authority so devolved. Nor can it be denied that a semblance of force is given to his argument by the error into which his antagonists have fallen, of representing the supreme power in the state as actually conferred or bestowed by the people over whom it is exercised. They who hold this language fall into an error of exactly the same kind with that which has already been exposed, of holding an original contract to have been the source and foundation of government, or of the mutual rights and duties of sovereign and subject. The arguments used to refute the latter doctrine are equally applicable to the former. Indeed the two are nearly related, and the notion of an actually delegated trust or authority arises naturally enough out of the notion of a positive contract. But nothing can be more entirely without foundation. It is as certain that there never was any actual delegation to rulers, any devolution to rulers, by the people, of the power to govern them, as it is that there never was any bargain made between the two parties, by which the one became bound to obey, and the other stipulated to rule, on certain conditions. It is as impossible that there should ever have been any such act of delegation executed, as that there ever should have been any such contract made. But there is this difference between the two theories,—that whereas the advocates of a contract appear

really to contend for it literally, and reason from it as if they asserted the fact; the advocates of delegation may say that they only use the statement metaphorically—not meaning to assert the fact, but only considering the relation between governor and governed, as if it resembled that which exists between a principal and an agent or deputy. At all events this is certain, that no mischievous practical consequences can be deduced from the doctrine; whereas, the opposite tenet of separate and independent right in the sovereign leads at once to the most dangerous conclusion, that he holds his place for his own benefit, and may exercise its functions at his own pleasure, for his own individual gratification. Mr. Burke himself, though he never ventures broadly to state so absurd a proposition, yet constantly falls into trains of reasoning in which it is more or less assumed to be true. But his main objection to the doctrine of delegated authority is the inference drawn from it, and embodied in terms, no doubt, sufficiently offensive, that they who make can unmake, and that princes having been appointed by the people may be by them removed—it is sometimes offensively called cashiered—at their pleasure. Nothing can, it is admitted, be more absurd than this notion, if taken in the literal and absolute sense of the words which convey it. To contend that sovereigns may be displaced by their subjects at will, as a servant is removed by his master, is to confound together things wholly different from, and almost opposite to one another, merely because, for want of more precise and better defined language, we have come to call very different things by the same name. But if it is intended to assert only that the sovereign holds his office for the benefit of the whole community, a case may be conceived to arise in which his deposition would be required; and, if required, would be justified. This brings us round to the doctrine of Resistance, as already explained, and rested upon the general utility and the principle of expediency, and by that principle limited and defined. On the same ground rests the duty and the right of governors and governed, as we have above shown; and not on either any fanciful contract between the two, or any actual appointment of the one by the other. The same principle of expediency in which these rights and duties originate, limits and defines them; and thus we perceive that much controversy is sure to arise, and many errors may very likely be occasioned when men rest positions undeniably true

upon false foundations; though when the disputing parties come to understand one another, they are found not to be so widely asunder, and the errors are easily removed.

This theory of delegation is sometimes concealed under a more plausible form—a form more plausible only because it is less distinctly defined. The common phrase to which we refer is, that all power comes from the people, or that the people are the source of all power. Sometimes this is qualified by saying, "all just or all legitimate power;" it being, indeed, directly contrary to the fact, to represent all power whatever as coming from the people, when most frequently power, in its original, has been an usurpation or encroachment upon the people, made either by fraud, which pre-supposes the abuse of all consent, or by force, which means setting dissent at nought and overpowering all opposition. But still the expression, as far as it has any meaning, must be intended to describe a delegation of authority, whereas the utmost we can say, is that there may, in many instances, perhaps more or less in all, have been an acquiescence on the part of the people. Even where the constitution of a country is purely Democratical and vests in the people at large the choice of the chief magistrate for a term of years; or where, as in an Elective Monarchy, the people, or rather some portion of the people, choose the king, there is no accuracy in representing the sovereign power as delegated. The person is appointed in this particular manner, by whom the sovereign power is to be exercised; and, indeed, in the former case, only a portion of the sovereign power is exercised by the chief magistrate in whatever way he is appointed. The case of an absolute monarch, chosen by the people at large, never existed in any country: nor could it in the nature of things exist, because he would hold only a revocable authority.

In dividing and classifying the different forms of government, we have seen that the Democratic is that, in which the people govern themselves by officers, whose appointments are all dependent upon their will. But it must be observed that this will is always, in countries of any extent, subject to necessary modifications. In small communities, as in the ancient republics and in some of the Swiss Cantons, the whole body of the nation may meet and deliberate on the adoption of measures or the choice of office-bearers. But this is wholly impossible in countries of

any extent. Accordingly in modern times,* the very great improvement of electing representatives to exercise the supreme legislative powers has been introduced, and by this means a real delegation may be said to take place of the people's deliberative authority. It forms, however, no real exception to the remarks already made upon the doctrine of delegation; for that doctrine means to express the general position that all authority in all states proceeds directly from the people; whereas it is only true to affirm that the good of the people is the sole object of all government; and it is also no doubt true that no government could exist at all, if the people at large did not acquiesce in it.

The ignorance in which the ancients were of the principle of delegating to a body elected by them from time to time their deliberative and legislative powers, is very remarkable; and the reader of the history of the ancient States, as well as he who consults the speculative works of antiquity, is constantly struck with the practical defects and the theoretical errors which arose from this source. But with this exception, and the other error of underrating the labouring classes, it is astonishing how little inferiority can be traced in the doctrines of those illustrious men whose genius and wisdom have shone as lights to instruct all ages. Some of the most skilful contrivances ever devised by politicians in any age are to be found in the systems of the Greek Republics, while the most profound reflection on human affairs, and the most penetrating sagacity in seizing great principles of polity are to be constantly found in the writings of the philosophers, both of Greece and Rome. How well, for example, Aristotle was aware what is the true end of all government, appears clearly from his twofold division of all governments, with regard to their different tendencies. He would allow only of two kinds, that in which the good of the community is everything, and that in which it goes for nothing; and this line he drew without any regard to the form, whether Monarchical, Aristocratic, or Democratic; for he showed that each kind might

* The delegation of the supreme legislative powers to a representative body was unknown to the ancients. The Athenian Senate has sometimes been cited as an instance of the representative principle; but this is an error, because the whole body of the people continued to exercise its functions in the General Assembly, making decrees, and rejecting, or confirming, or amending the measures proposed by the senate,—so that, even had the latter been an elective body, it would have been chosen only to help the constituent body, and not to receive by delegation all the functions of the electors.

sin against its true end and aim—the public interest; the Monarchy, by becoming a Despotism; the Aristocracy, by degenerating into an Oligarchy; and the Democracy, by falling into Anarchy; in all which cases the people at large were absolutely neglected, and the usurping body consulted its own interests or caprices alone. Nor should it be forgotten that this great man, with his deep knowledge of human nature, has devoted much of his writings to show how the people may, by education, be so much improved in knowledge and in virtue, as to become capable of exercising political privileges with advantage to the State. Admitting, as he does, that there had always existed in the Greek Commonwealths a large body of utterly ignorant and unprincipled persons;—the sport of their own blind passions, and the ready tools of whatever ambitious and profligate leader may arise to mislead them for his own ends; in one age, the willing slaves of some successful warrior; in another, the heedless followers of some powerful orator, through whose dangerous influence the popular form of government is sure to be corrupted, and the people to contract all the vices and the ferocity of the tyrant:—he points out how these evils, excepting in the case of a few unhappily constituted individuals, might be prevented by a fit system of moral, physical, and intellectual training. In order to maintain perfect equality among the citizens, he prescribes that the greater number of offices are to be conferred by lot; in general, no one is a second time to serve in the same capacity, except always in military places; and justice is to be administered by all the citizens in succession. The exception introduced as to military service shows the impossibility in which Aristotle found himself of applying his rules to cases of public service bearing directly upon the safety of the State; for the duty of defending it against foreign enemies only differs in the degree of its importance from that of performing any other duty towards the community.

Two questions are frequently raised by those who treat of the Philosophy of Government, when they examine the fundamental principles of public polity: the one of these relates to the part of every given constitution in which the supreme power resides; the other to the distinguishing characteristics of the different forms of government. Though both these questions are rather more of curiosity than of practical use, it would be improper to

omit all consideration of them in this general survey of fundamental principles.

1. In all the pure and unmixed forms of government, no doubt whatever can, for the most part, exist upon the question, wherein resides the Supreme Power? Under an absolute Monarchy it, of course, is wholly vested in the king or other sovereign person, whatsoever his title may be; nor does any arrangement which he may make for his own convenience, in executing his office, as we have already observed, alter the matter, or occasion any division whatever of his power;—nay, we shall presently see instances of checks having gradually arisen in such despotic governments by the permission of the prince, and sometimes by his own voluntary act, for the sake of his ease or other interest; and those checks being at once swept away by one single effort of his power, as soon as their force became sensibly felt. In a pure Democracy, or Aristocracy, it is equally easy to tell where the power dwells. But in governments where there may be some admixture of principles alien to their fundamental nature—and this has been the case in most countries—it is by no means so easy to fix upon the owner of the supreme power. Thus, in the earlier stages of the Athenian Constitution,—both during the short period while Solon's laws continued in force, and the lowest class of the people were alike exempt from paying taxes, and excluded from office; and afterwards, when all such barriers were removed, the whole body of the citizens, without any distinction of rank or fortune, exercised in their assemblies the government of the State, and, in effect, made the laws, and decided, as well upon the measures of executive administration, as upon the persons who were to carry those measures into execution. Thus the whole people exercised the supreme power; none but the slaves—who were about five times more numerous than the free men—were excluded from a share of political power. In Sparta there was a mixture of kingly power, of aristocracy, and of democracy. Two kings were vested with equal powers, and succeeded to the divided crown by inheritance. They possessed the right to the supreme military command in time of war; and they enjoyed certain religious privileges and powers, which were of great importance in the earlier times. They had also a peculiar jurisdiction as the guardians of orphans and heiresses; and they had a power, of which we

do not know the exact extent, over the Lacedæmonians of the country, who, although free men, were a conquered people, subject to the Spartans of the city, and not partaking in their political rights. But they had no legislative or executive power over the Spartan citizens in time of peace, without the concurrence of a senate, chosen by the people, only twenty-eight in number, and chosen for life. The senate, including the kings, possessed the initiative power in legislation; but no law could be enacted without the consent of the General Assembly of the people. The people, however, could only confirm or reject the measures proposed by the senate, and had not the power of amending them; and none but magistrates were allowed to speak in the assembly. To the assembly of the people was reserved also the power of declaring war and concluding treaties, electing senators and other magistrates, deciding in cases of disputed succession to the crown, and trying even the kings themselves for misdemeanor in their high office. As the assembly was convened periodically, once a month, there must, at least in early times, have been other less important executive business which required its sanction, probably of a judicial character. But there were five magistrates, called Ephori, appointed annually by the people out of all the citizens, whose office in the early period of the constitution seems to have been of little political importance; but at a time when the powers of the General Assembly were restricted, those of the Ephori were enlarged, apparently in compensation; and they seem to have gradually taken upon themselves to act as a standing committee of the assembly of the people, in which the sovereign power ultimately lay. Thus, backed as they were by the authority of the assembly, the chief executive and judicial power came to be vested in these five annual popular magistrates, and the kings and senate became comparatively insignificant. What we know of Carthage makes it probable that the ultimate power was really lodged in the people; for though the offices, and the places in the senate were only to be enjoyed by the richer citizens, yet when the two Suffetes, or chief magistrates, could not agree, an appeal lay to the people in their General Assembly, to whom also was reserved the right of confirming the election of generals and of foreign governors, and of being at least consulted upon all questions of peace and war. In Rome, for

some ages after the expulsion of the kings, the government was Aristocratic; and although it afterwards tended towards Democracy, when the people acquired a decided preponderance in all deliberations and all appointments, yet the supreme power could not be said to vest in them exclusively, but was, in some small part, shared by the Patrician, or noble orders.

In modern times a greater difficulty exists of defining the ruling power, excepting in the case of Absolute Monarchies, where there is no check at all upon the sovereign's authority, and in Constitutional Monarchies, where the check is only indirect. But, upon the whole, we may consider the nobles as the depositaries of sovereignty in the former Italian Republics, and the nobles jointly with the commons in most of the Swiss States; while in the Swedish and Danish governments, before the Revolutions of 1772 in Sweden, and 1650 in Denmark, the Crown and the Aristocracy shared the supreme power in unequal portions, the latter having a most preponderating authority; and in the United Provinces of the Netherlands, in England, and in France since the Revolution, the power is lodged in a Legislature composed of three estates. In the Federal Government of the United States of America, the people plainly exercise the supreme power by means of a President, a Senate, a House of Representatives, who are all elective, and a Judiciary body. In these officers the people of the several states, at the formation of the union, vested the powers of the Federal Government, which powers depend for their continuance on the will of those who gave them—namely, the citizens of all the States.

In several of the schemes of policy which have been devised by modern nations, a refinement has been introduced, sometimes upon the representative, sometimes upon the elective system—that is, sometimes upon the manner of choosing deputies to legislate, sometimes upon the manner of choosing persons to fill office. This consists in placing somebody between the original electors and the person ultimately elected. Thus, in France, electors choose, not the persons who shall represent them in the Legislature, but those who shall elect the representatives: and in Venice, under the old, complicated constitution, several elections took place between the original body of choosers, and the persons who were to be named as office-bearers. These contrivances, which are chiefly intended to

prevent corruption and other kinds of undue influence, are all liable to one manifest and fatal objection; they enable a minority of the original body in whom the elective power is vested, to prevail over and defeat the majority; so that where there is such an intermediate election, the supreme power can never be said to be lodged in the original body of electors, but rather in those assemblies of secondary or tertiary electors who choose the representative, or the office-bearer, because it is of these that the majority must always decide; and no body can justly be said to exercise the supreme power when its majority is not certain of carrying any point in question.

2. Of the writers who have speculated upon the distinguishing principles of the different kinds of Government, Montesquieu is by far the most celebrated; and the great reputation of his celebrated work, which has been represented by some high authorities as having exercised an influence upon the progress of opinion little inferior to that produced by the writings of Locke himself,* requires that we should here close our strictures on the general principles of government by adverting to his theory.

He lays down these fundamental principles as those of the three kinds into which he divides all Governments, namely, Despotism, Monarchy, and Republic, under which last he comprehends Aristocracy. These principles are—in Despotism, fear; in Monarchy, honour; in Republics, virtue. By "*principle*" he means not so much the foundation on which a government is constructed, or the quality which is essential to its nature, as the spring by which it acts; the thing which gives it force; and by the words, "virtue" and "honour," he does not mean what we ordinarily understand by those terms; for by "virtue" he means the love of the established government in a Republic—devotion to its interests, a preference to these by each individual to his own—in a word, what we call public spirit, or patriotism, but pointed, above all, to maintaining the existing order of the State; and by "honour," he says he means "the prejudices peculiar to each person in each condition;" but as this is really extremely vague and indistinct, it may be gathered from the context of the work, that he means by "honour," ambition, the love of dis-

* Sir James Mackintosh classes the *Esprit des Loix* with the "*Essay on Human Understanding*" and the "*Wealth of Nations*," in respect of their influence on public opinion.

tinction, the desire of esteem. Having laid down these epigrammatic, and artificial, and unnatural positions, he proceeds to show how the laws of each country are adapted to encourage the principles of its government, and how also the education in each country, by which he means the training that men receive in society and in the world, is similarly adapted. Much valuable information, but mingled also with much that is quite incorrect, is introduced under such divisions, or heads; and many sound remarks are mixed with a great deal that is fanciful and unfounded, and even manifestly untrue. The fundamental positions themselves, however, are extremely incorrect.

It is clear that, in a Monarchy, as well as in a Commonwealth, great aid is derived to the State from the patriotism of its members,—nay, it is quite manifest that public spirit cannot be distinguished from honour in such a government. It is the principal walk in which men seek honour, and display their ambition and desire of esteem. The mere show of personal courage is not the only line in which the cavaliers of modern times, and in Monarchical states, seek to distinguish themselves. Gallantry in war and devotion to the Prince are the chief motives of their conduct; and, as this connects itself immediately with the support of the Monarchy, it falls within Montesquieu's description of virtue or patriotism. After all, it is absurd enough to suppose the bulk of the people inspired by such feelings in any Monarchy. They are only to be found among the upper classes who come in contact with the court—in a word, the privileged orders, or Aristocracy; and these, as a body, are influenced more by a love of their own order, and a regard for its power, than by any other consideration. The prince may excite among them an emulation for his favour, and thus attach them to his interests; but his strong hold, without which all other ties would be feeble, consists in his supporting their privileges against the bulk of the community, and, in fact, giving them a share of the supreme power. Then they stand by him and by the Monarchy for their own sakes; and instead of honour being the prevailing motive, and forming the spring of the Government, it is, in truth, the more ordinary and far more steady, and quite intelligible motive of self-love that acts on this class. It is a virtue indeed here as elsewhere to be patriotic; and men will here, as in a Commonwealth, distinguish them-

selves in pursuit of this title to Public as well as Court favour. In a Republic they will seek such distinction more generally, and will feel, that in promoting the common weal they are promoting their own interest, as they will also feel that their Sovereign, whose favour they court, is the People of whom they themselves form a part. Thus the rule of action, the principle, in each case is precisely the same with those classes to whom alone the position can apply. Patriotism or public spirit is the same in each, though it is likely to prevail more under the popular than under the Monarchical government, and self interest is the same in each, the ruling motive, and the main-spring. As for the bulk of the people, excluded from the scope of all such considerations in a Monarchy, and to whom the present discussion really has no application, they are governed by the same principle which prevails in a Despotism, only more universally, and to a greater pitch—fear. This it is that alone enables the prince and the privileged orders in Constitutional Monarchies (those which, as contradistinguished from Despotism, Montesquieu calls Monarchies,) to control the classes who are excluded from all share in the Government. In Republics this principle has much less place; it exists chiefly among the lowest of the people, and, even among them, in an inferior degree.

The work of Montesquieu is not only grounded upon such superficial positions and false assumptions as the leading one which we have now been considering; but it abounds in fanciful and groundless statements, generally made under the influence of some theory to which he would reconcile stubborn facts that will in no way bend to it, or with the puerile love of point, and quaint conceit which pervades the book, and is in every way unworthy of so illustrious a writer. The facility with which he gives credit to relations of fact, when they happen to fall in with his speculative notions, and the way in which he builds a theory upon the narratives of obscure travellers, without any regard to their probability, have not only served to feed the satirical humour of Voltaire, but have greatly lessened the value of the "*Esprit des Loix*" in the eyes of more calm and reflecting judges.

CHAPTER III.

ABSOLUTE MONARCHIES OF THE EAST.

Origin of Monarchy and its general prevalence—Manner of choosing the Chief, when the Patriarchal Government had ceased—Institution of hereditary succession—Manner in which the Chiefs strengthened and transmitted their power—Complete establishment of the Hereditary principle, a refinement of civilised times—Government of TURKEY—Sultan absolute—Mohammedan faith contributes to submissiveness—Levying of taxes—Absence of nobility—Koran affords no effectual check on Sultan's power—Dread of rebellion the only restraint—Government of PERSIA—Checks even feebler than in Turkey—Despotism more cruel than there—Oppression exercised in taxation—Nadir Shah—Kerim Khan—Despotic government unfavourable to the permanence of the Sovereign or of his Dynasty—Tables of Succession in Turkish and Persian Monarchies.

WE are now to examine more minutely the foundations, the structure, and the functions of the different kinds of government; and the first division is that of Monarchy.

The Monarchical form of government is, beyond doubt, the most ancient in the world. The patriarchal scheme began with the authority exercised by the father of a family, or of several families related to one another, as those of sons and brothers. This union extending itself to a whole tribe became in fact a Monarchical government; and probably such was in most cases the origin of that form. But another origin may also be supposed. When a tribe was desirous of making some combined movement for the purpose either of the chase or of war, or of removing from a hunting or fishing station where they had lived scantily and precariously and found they could no longer supply their necessities, they would choose the ablest warrior and most experienced person to lead them; and when the enterprise was finished, he was likely to keep an influence among them, and sometimes to obtain a continuance of the chief power. In all such cases a consultation with the elders on matters of policy, and with the most able warriors on military or hunting operations, was probably often

had recourse to, and laid the foundation of assemblies to which the bulk of the clan were not admitted. In rude states we find, at the present day, simple forms of government of this description. Sometimes there are general assemblies of the whole people; sometimes a select council is invested with authority; but there is almost always a chief, by whatever name he is called —king, cacique, khan—to lead the nation in war, and to superintend its affairs in peace. The manner in which he transmits his power to a successor, or even holds it during his life, is various. The more frequent course is probably hereditary succession; but often, even after some progress has been made in civilisation, the place is elective, the chiefs or even the warriors at large choosing the king. The remains of this method of appointing the ruler are to be found in many countries, even in the more advanced stages of society. Thus Tacitus informs us that the kingly office was elective among the ancient Germans, and Cæsar gives a similar account of it among the Gauls, who inhabited France and the north of Italy. Accordingly, long after this office had become hereditary in families, and the order of succession was firmly established, the ceremonial of the coronation contained one part which was derived from the elective process, and may be considered as the remains of it. The king was presented to the people for their approbation, and accepted by them. This is by our best antiquaries supposed, and with some appearance of reason, to be the remains of the ancient election, when a general or chief was placed upon a buckler, and held up to the assembled troops for their approval. In ancient Rome the title *Imperator* (Commander, whence the modern word Emperor is derived) was conferred by the acclamation of the Roman soldiers upon any general who had performed certain services in the field, and it was confirmed by a vote of the Senate. It was thus in its origin a purely military title, and it continued so long after the time of the first Emperors, by whom it was used in a military sense. By degrees however it came to designate the person holding sovereign power. In Thibet the sovereign is in some sort elective; for the Dalai Lama, who is the High Priest also of the state, is chosen by the other Lamas, or priests, they pretending to discover the child into whose person the spirit of Buddha, the founder of their religion, has removed, upon the former Grand Lama's death. But in truth the government is

here vested much more in the priests than in the Dalai Lama, who is often their tool and prisoner. Poland before its partition afforded the only other instance of a really Elective Monarchy in a civilised nation; for the choice of an Emperor of Germany being vested in a few princes, and the power conferred being only that of a chief prince over a federation or union of princes, this plan hardly can be termed Elective Monarchy in the proper sense of the term.

That the kingly power ever could be hereditary in early periods of society, according to any fixed rule of succession, is scarcely possible. The office of king is one of the utmost importance to the state at all times. No other approaches anything near it in power and influence. Upon his good government mainly depends the whole happiness of the state—its prosperity in peace—its safety, nay, its very existence in war. His want of capacity may ruin the country irretrievably; his vices or his profligacy, his indolence or his selfishness, may cause the utmost oppression and wretchedness to all his subjects. Nothing then at first sight seems so absolutely necessary as that the most careful selection should be made of the individual fittest to execute so important an office, and that every precaution should be taken to prevent an improper or an improvident choice. But that the whole of this great matter should depend upon blind chance—that no selection at all should be made—that the mere accident of birth should determine who is to govern the State—appears at first sight the extreme of folly. Nay, from such a plan it may well result that an infant or an idiot, or one deaf, dumb and blind, may be the person succeeding to supreme power. In short it seems highly improbable that a principle like that of strict hereditary succession could have prevailed in a stage of society where no refinements of system had been introduced, and where no provision had been made for supplying, by the help of others, the deficiencies of the prince. As long as his good or great personal qualities are essential to the existence of the government, no idea of strict hereditary succession could well be permitted to regulate the order of affairs. A chieftain even in early times may succeed in transmitting his power to his son; but this is only if the personal merits of the latter are sufficient to make him appear equal to the task; and the plan of first adopting him as his assistant in the government

is generally the means resorted to for the purpose of securing his succession. Sometimes the reigning chief takes the eldest, sometimes a younger one, according to the ability or popularity of each; and where the progress of society has been much greater, and the succession is well established in the reigning family, the determination of which prince shall succeed is left to be decided by the chiefs, or an assembly of the most powerful men in the state. The succession in the Saxon kingdoms was governed by such a principle till a comparatively late period, and so it was in other European nations. In the absolute monarchies of the East the successor is designated by the reigning prince.

The complete establishment of the hereditary principle in the estimation of men is a refinement of very advanced stages of society. It is introduced in consequence of the experience of the mischiefs resulting from a disputed succession, and the decision in its favour is formed upon striking a balance of good and evil, in which the advantages are found upon the whole to preponderate against election and for inheritance. But in all countries, long before men's understandings have been convinced, and the general opinion been determined in favour of hereditary right, it has been established by force. The increasing power of the prince has borne down all opposition, and by means of a regular army has compelled the enslaved people to submit, even where all who considered the subject might feel the great objections which exist to the rule, and be ignorant of its chief advantages. Deceptions practised upon a people ignorant, indeed purposely kept ignorant, of political matters by being prohibited from discussing them—priestly influence by means of religion perverted to temporal purposes—co-operating with the fears arising from military power, have silenced all complaints, and have even deprived the people of all notion that things could be otherwise arranged than they have always seen them. This is probably the original foundation of most monarchies; they only derive support from public opinion when they have become somewhat mitigated in their practice, or even refined in their principles: and then, discussion being permitted, men discover that there is an advantage in the certainty and tranquillity which hereditary succession secures. In truth, no one can doubt that there are serious evils, great hazards, inseparable from the plan of hereditary monarchy.

But then it is equally impossible to doubt that the one risk of civil war is so imminent on each vacancy of the throne, as to be almost a certainty, and that civil war is of all national calamities the greatest. This would be sufficient to cast the balance against election. But it is attended with other mischiefs of a serious kind. Each chief when raised to the throne has an immediate interest in providing for his individual aggrandisement, and sacrificing to his personal views the whole interests of the country. He is more likely to do this than the owner of an estate in strict settlement, who has only a life interest in his possessions, is likely to injure the property, which must in most cases remain in his own family after his death. The elective Prince resembles such an owner who has no near relation, no one he cares anything for, to succeed him, but whose attention is directed to provide for some natural child or other favourite, to whom he sacrifices the good of the estate. The Popes have not unfrequently united in their own person both characters—both that of the elective Prince and of the childless parent, securing the aggrandisement of a spurious issue at the expense of their subjects, and by the violation of their duties.

Pure Monarchy is one where the Monarch alone makes and executes the laws—the whole powers of government being centered in his person without any division and without any control other than he chooses to impose upon himself, or submits to from prudence, in the fear of producing a revolt among his subjects. Of this kind of Absolute Monarchy or Despotism, instances have not been wanting in all ages of the world; and among civilised states, those of Asia chiefly afford such examples, and have in all ages afforded them. For despotically as the Roman Emperors ruled, there were some constitutional checks which they broke through, some remains of Republican institutions which stood in their way, and therefore their power was a constant usurpation, partly by uniting in their own persons different offices which the forms of the constitution required to be kept separate, and partly by disregarding the privileges, and overpowering the influence, and even dispensing with the functions of bodies which the law recognised. But in the Monarchies of the East there never were any such forms, or offices, or bodies; and the prince always, even according to the strict principles of the constitution, rules alone, having nothing to check him but

27459

the religion of the country and the influence which it gives the priests and exercises over the people, or the customs of the country which being known and respected by the people, he likewise from prudence, and for no other reason, generally abstains from breaking through.

In those countries it is the fundamental maxim of the government and the constant rule in practice, that all power and authority whatever proceeds from the prince, and that rank as well as power comes entirely from him. If there were any men or bodies or classes of men possessing privileges independent of him, his power would be so far restrained, and his influence and even authority in the state divided. Thus in Turkey, where the Sultan (or Grand Signior as we sometimes call him after the Italians), is the supreme and absolute ruler, there exists no one but himself who can be said to possess any power. He issues his edicts, which have the force of laws. He commands the whole naval and military power of the country. He sometimes, though in violation of the Koran which is the very groundwork of his authority, imposes taxes on the people, and levies them as he likes, either generally, or locally, or partially, making one place or one set of persons or one individual pay, and not the rest of his subjects. And with few exceptions the whole nation is subject to his absolute will and caprice, and there is no one who does not derive from him all the authority and weight he possesses in any employment, or in any station.

As, however, the Sultan cannot do all the business of the country, but, on the contrary, from the indolent habits of the East, and the worse and more effeminate habits contracted by the bad education of despotic princes, passes his time inactive and averse to employment of any kind, he is obliged to delegate his power to ministers and officers of different kinds—yet all of these are named and removed by him, and are absolutely dependent on his pleasure or caprice. His prime-minister is called the Grand Vizier; the minister for foreign affairs is the Reis Effendi; the governors of provinces are called Bashaws or Pashas; the admiral is called the Capitan (captain) Pasha, and so forth; the judges are called Cadis; and all these act in the sultan's name, and obey absolutely whatever orders he gives them; so that if he pleases to order that a cause be decided in a particular way, the judge must obey; and applications to the sultan, or the bashaw or go-

vernor of a province, to interfere for this purpose, are very frequent. Thus there is no possibility of resisting his superior authority, or controlling his universally prevailing influence, unless it be that some kind of limits are fixed by the Koran, and by the bodies of priests and lawyers who interpret it and administer the laws founded upon it, and whom it is not the practice for the sultan to interfere with, although he appoints all their chiefs, either directly or through his governors. The chief priest, primate, or archbishop, is called the Grand Mufti, and owes his promotion to office to the sultan entirely, at whose pleasure he continues to hold it or is removed. The religion of the country is the Mohammedan, which represents the prophet Mohammed as having been commissioned by God, and as having been endowed with the powers of prophecy. The descendants of the prophet have by this religion peculiar attributes—are regarded by all the Mohammedans or Moslem (called by us Mussulmans) in the countries of the East where this faith prevails, with peculiar respect and consideration, being allowed a kind of superiority in many respects, some more some less important—among which last is the exclusive right to wear a green dress: the Sultan is one of these, and of course in the Turkish empire he is at their head. This religion also inculcates implicit obedience to the sovereign; and, by the alliance with the church of which he is the head, as well as by his direct power over all its priests and other functionaries and his absolute control over all its possessions, his authority is greatly increased. He is regarded by an extremely religious and in some respects a superstitious people as the representative of the Prophet, or as the Vicar of the Vicar of God. The Mohammedan faith is one of pure Deism—the unity of the Deity being its fundamental doctrine, and all other gods and all idolatry being strictly forbidden. A future state of rewards and punishments is equally inculcated. A paradise of a very sensual nature is held out as the reward of virtue, and chiefly of a compliance with the rules of the Koran or scripture of Mohammed, the greater part of which has relation to observances and ceremonies, but which also prescribes piety towards God, charity towards man, and humanity towards animals; and inculcates the obedience due towards parents, towards princes and their representatives. A place of punishment is held out to deter wrong doers.

The doctrines of this religion, though in many respects very pure and even philosophical, when compared to the depraved and gross superstitions of India and Africa, yet inculcate, as held by the Turks, the most absolute *Fatalism*, that is to say, predestination or practical necessity—the foresettling or pre-ordaining by the Deity of every event that can happen, and the uselessness of struggling against what is thus pre-determined. It has sometimes been said, that no man in his practice is ever altogether a fatalist or predestinarian, because he feels and acts as if he had the power to follow his own will, and to affect the course of events. But many, and especially the Turks, do so firmly believe that whatever happens or can happen to them has been prefixed and ordained by Heaven, that this faith practically influences their conduct as well as their sentiments. They therefore are careless and indifferent on many things which would greatly interest other men, and this has both good and bad effects on their conduct. Thus, they take few precautions against the plague or other natural evils, or against accidents, as wounds and shipwrecks. Sometimes they even are supine in their preparations against human designs and aggressions. But they also are excited by the same feeling to great exertions of active courage and to feats of passive firmness, of fortitude, and patience. The devotion to their superiors, that is to the Emperor or Sultan, and his ministers and representatives, is equally a part of their religion, and of their belief in predestination. In the excesses of his fury and caprice the Sultan has been known to put numbers of them to death in his presence, some of them with his own hands, and these fatalists submit entirely; indeed, it has been said that the contest has often been for the distinction of being beheaded by the Sultan himself, as it once was with Peter the Great's soldiers; this they believe opens the gates of Paradise directly, and infallibly, to the party so destroyed.

It should however be remarked that there are certain privileged bodies which do practically put a salutary check upon the power of the Sultan. There is, in the first place, the Ulema (a body composed of students for the magistracy and the priesthood), whose opinion has great weight with the people. There are also the descendants of the Prophet Mohammed, who form a considerable body and are of great influence throughout the empire, and who, among other substantial advantages—such as

that of being exempt from all taxation—enjoy the privilege of having a court of their own, the Nakib, wherein alone they can be tried. The Mufti, or head of the Ulemas, is also exempt from capital punishment, and his property cannot be confiscated. Lastly, there was the formidable body of Janissaries (abolished by Mahmoud II., the late Sultan, in 1825), whose immunities and privileges were so great as materially to curtail the power of the Sultan; whilst their organization enabled them to effect with wonderful promptitude vast changes, whether for good or for evil, in the government.

Notwithstanding these privileged bodies, however, and the reverence which the Sultan is obliged to show, at least outwardly, to the precepts of the Koran, from which, as we have observed, he derives his power, it is hardly necessary to add, that it is a power constantly and grievously abused. The Eastern tyrant orders any individual to be seized and put to death for a look, much more for a mutinous word. He walks through his capital perhaps in disguise, and settles some dispute between his subjects by ordering one to give up his property to another, because he thinks, upon a moment's inquiry, that the latter has a right to it—or merely because his caprice makes him lean to one rather than the other. He hears a charge against a man, and at once strangles him on the spot, or he takes a dislike, and without any pretext at all kills him, and sells his family for slaves. He covets some one's house or garden, or jewel, or wife, and instantly seizes it, or kills the owner that he may take it. Even this is not the worst that the people suffer; for were this all, men might be safe by keeping at a distance, and the despot cannot be everywhere. But where he himself is not, his deputies, his bashaws, or as in some countries they are called his beglerbegs, are, and their subaltern oppressors. Each has all the sovereign's prerogatives in his own person; and though they are all liable to be summarily punished, not only by removal, but by being strangled with the bowstring sent to be inflicted upon them, and although the Prince does now and then so punish wicked governors, yet he has a direct interest in their exactions; for one of his largest revenues is the succeeding as heir to all persons in his service, and in case they should conceal or secretly make over to their family the gains they have made in the public service, the Sultan, during their life, squeezes the money from them, and puts them to the

torture by the bastinado — severe strokes on the soles of the feet—and by other torments, in order to discover their property. The bow-string is used in a way quite characteristic of the Turkish despotism. The sultan or his vizier, if he be the person ordering the punishment, sends an officer, generally one of very inferior rank, to the bashaw who has been complained of, and whose conduct has, behind his back, been examined by the government at Constantinople. He carries a bow-string with him, and the order of the sultan in writing, sealed with the imperial signet, dipped into black ink, and signed with the Sultan's cipher or toghra. The bashaw, if he has a power in his hands which enables him to set the sovereign at defiance and to rebel against his authority, avoids seeing the messenger, and puts him to death on some pretext, as having him waylaid, and representing him as killed by banditti. But if not, he at once on receiving the messenger's communication, kisses the sealed paper and the bow-string, bares his neck, and allows the man to strangle him, when his body is either buried privately, or thrown to be devoured by dogs, according as the people or the troops at the seat of his government (called a pashalik) are well or ill disposed to his person.

We have stated that the Sultan's power in Turkey, as all over the East, extends to committing any acts of extortion or plunder that he pleases. But the power of regular taxation is very seldom exercised; and nothing can be more deserving of our attention than this circumstance. The only legal tax to which a Mussulman is subjected is one called *Sadakah* (alms), from its primitive destination being the support of the poor—and *Zakah* (purification), because that portion of his property which a Moslem offers up to God is *to purify* or render lawful the possession of the remainder. This, together with the capitation-tax, paid by the Christians and Jews living in the Turkish dominions, and the fifth of all the spoil gained in battle, as well as the sale of the land in the conquered provinces, was at first sufficient to defray the expenses of the Government, and to maintain the splendour with which the Khalifs, the earliest successors of Mohammed, surrounded their courts. In course of time, however, when that portion of the revenue which arose from their conquests failed by the want of success of their arms against the Christians, the rulers of Mohammedan states had

recourse to the expedient of imposing certain duties upon the importation and exportation of goods, and the sale of provisions in the markets. Even this tax, though it appears to weigh chiefly upon the Christians and Jews, to whose hands trade and commerce have always been nearly confined, met with considerable opposition on the part of Mohammedan divines of all ages, who considered it as illegal. The only taxes now gathered throughout the Turkish empire are 2½ per cent. on all articles of trade held by Moslems; and the *Zekiatu-l-Kharij*, i. e. 5 per cent. upon the produce of cultivated land—or 10 per cent. upon the spontaneous produce of the earth.

The chief limit to the power of the Sultan is the dread of the people being able to bear no longer with his oppression, and rebelling against him. Should any such revolts happen, and the troops join the insurgents, or be overpowered by them, the ignorance of the people, and the want of any order of men having influence with them—any natural leaders—might cause the rebellion to spread fast and far. This, consequently, is a danger always to be guarded against. Now, the habit of going on in one way, and providing for the expenses of the state in a particular manner, has begotten the expectation among the people that the Sultan will always confine himself within the same limits, and though he is not, and cannot be bound by any authority higher than his own, so to restrict himself in the exercise of his absolute sway; yet the general belief is that he will, and extreme discontent might be excited by his frustrating such expectations, and breaking through the practice of himself and his predecessors. This might lead to rebellion; and to avoid the danger of it, he will generally conform to those customs which have been long established and followed by his ancestors. There is, indeed, but little security to the people, or any portion of them, from this feeble restraint. For the tyrant and his deputies may commit any outrages they please to gratify their rage, caprice, avarice, or lust; they may oppress or pillage individuals, or single towns, or districts; and, accordingly, they do in this way raise money, and maltreat individuals or bodies of men, because partial resistance is easily put down. But a tax would be felt all over the country, and therefore this they dare not impose. It would arm all men

against them, and that is not to be risked. Where some great event—some danger to the whole community—gives a prospect of their submitting to be taxed, the experiment may be tried. But in general it is avoided by all Sultans. They prefer partial levies, as in the capital and one or two great ports, or they trust to crown lands which by partial seizures and forfeitures they can extend at pleasure, or they rely on the treasures accumulated by their predecessors; or, finally, they plunder individuals and particular districts; and, above all, bashaws or governors, who have been allowed to scourge and impoverish the people, and who make the Sultan a large sharer in their unjust gains; by which means they purchase impunity for their exactions, and a licence to continue them. Nothing, it is evident, can be so disastrous as such a system. No man is secure in his property for an instant—all are compelled carefully to conceal their possessions, lest they should lose their liberty, or possibly their lives and their property too. Industry is thus not merely cramped, but almost prevented or extirpated, by men being deprived of all confidence in their enjoyment of its rewards. The country, fertile in its resources of all kinds, is left waste, or only cultivated as far as the absolute necessities of providing sustenance may require. The nearer you approach the seat of government this is more the case; and the neighbourhood of the capital, which in other countries is naturally the scene of extended labour, thick population, and great cultivation, is in Turkey marked by barrenness and neglect. Constantinople can only be approached on the land side by travelling through extensive wastes without either man, or beast, or tillage.

One of the evils of such governments as that of Turkey consists in the constant fear of the rulers, and the proceedings to which alarm drives them. As there is no restraint upon their measures of self-defence any more than on any other part of their conduct, the instant that they take fright they set no bounds to their cruelties. Thus, a whisper gives rise to oppression. An individual is accused of dangerous designs; some secret enemy denounces him; whatever inquiry is made takes place in his absence; he is considered guilty or dangerous, and he is sacrificed to the fears of the ruler; but he very possibly may have done nothing, and intended no harm, and may only have been

accused by some personal enemy, or one who wished to gain his place, or in some other way to profit by his destruction. After the man has been put to death, or shut up for years in a dungeon, the government may discover that his accuser bore him a grudge and desired revenge, or owed him a debt and was afraid of being called upon to pay it, and that the charge was a mere fabrication: just as it was discovered in this country, after a foreign trader had been confined in consequence of his arrest under the Alien Bill, that a debtor had informed against him in order to have him disabled from suing for his money. So the same misinformation or groundless alarm often draws down vengeance on a town or district. The inhabitants are suspected of disaffection; their country is ravaged; and they are exterminated or sold to slavery, that the apprehensions of the despot may be allayed. Fear is the appointed punishment of tyrants; and were the sufferings which it inflicts confined to themselves, it would be matter of rejoicing to the rest of mankind. Unhappily it is always the cause as well as the companion of cruelty—exasperating the rage of the tyrant, and increasing the sufferings of his slaves.

The excesses to which unbridled power gives rise in Turkey, and still more in the smaller despotisms of the East, are such as we cannot say exceed belief, because it is the inevitable tendency of such authority to be grossly abused, and the worst of abuses is to be expected as its natural fruit. It corrupts the possessor; it insures the very worst education being given to him, and the worst habits formed in him; the most pure selfishness must needs be engendered in any human being who has since his earliest age not known any restraint: but if, as almost invariably happens, the first portion of his life has been passed in abject submission to some other, the despot of the day and his tools—if he has learnt all the falsehood, the fears, and other baseness which constitute servile habits—then we may be well assured that, upon being transformed at once into an absolute tyrant from a crouching slave, he will speedily become such a compound of cruelty and meanness as must form the most despicable and hateful of beings. The most rare felicity of a temper which nothing can spoil, or the accident, hardly to be reckoned possible, of having instructors who know their own duty and his real

interest, can alone prevent him from assuming this monstrous character.

The Turcomans, founders of the Turkish Empire, came from Tartary, where they had originally been settled as a horde of shepherds, and having multiplied and acquired hardy and warlike habits, had overcome the neighbouring tribes, and established several large empires—all governed by absolute and military power. In the middle of the thirteenth century other Tartar nations had conquered China; but in the year 1366 they were compelled to relinquish the throne of that country to a native dynasty, which held it until 1644. In the mean while the Tartars had united with Mongols, a neighbouring race, and from that union sprung the Mantchows, who after a contest of more than twenty-five years' duration again conquered China, where they still compose the reigning family and the chief nobility and hold the most important civil and military places, notwithstanding the prodigious superiority of the Chinese in numbers—exceeding 300 millions, while the Tartars are not nearly one.

Upon taking Constantinople in 1453, and putting an end to the Greek Empire, the Turks for some time showed no disposition to profit by the refinement of the celebrated nation, then in its decline, whom they had subdued; and as one of their most marked dispositions was to abide by their own customs, which they held a religious duty, these were imported into Greece, which now formed part of Turkey in Europe. The difference of their religion, which was that of Mohammed while the Greeks were Christians, still further kept the two races separate; and it was only by slow degrees that the Turkish habits were improved from their intercourse with their new subjects. The near neighbourhood of European States, however, gradually softened their barbarous character, and introduced among them considerable civilisation. This and the various institutions absolutely necessary for preserving a very extensive system of government—the distribution of powers and functions, required for its management at home—the arrangements required both for its defence by sea and land, and for supporting an intercourse of amity with civilised nations—perhaps more than all, the effects of commercial intercourse, which introduced the absolute necessity of recognising the rights of personal security and of property at least in foreign

residents, and of making those seaports from whence a considerable revenue arose, accessible and habitable to foreigners—all these things have in practice greatly mitigated the original fierceness of the Turkish despotism. In fact no large and complicated government can ever exist without imposing some restraints upon individual caprice. The distance of the chief power from its subjects—the difficulty of delegating entire its absolute authority to others—the necessity of combined operations, in which various persons take a part—are all obstacles to the exercise of purely arbitrary and capricious sway. Nor should it be forgotten, in our estimate of the nature and effects of Turkish despotism, that of all the Mohammedan States Turkey is the only one where the codification of the laws and statutes contained in the Koran has been seriously attended to—the only Mohammedan power in possession of a religious, civil, and military code—where the duties of the subject towards the sovereign are clearly defined. The civil code now in vigour among the Turks is not wanting in articles like the following:—"The Sultan cannot make alterations in any point of canonical law, much less alterations in any manner to aggravate the condition of his subjects, the creatures and servants of God intrusted to his care and protection." These codes are not a modern institution in the Turkish Empire. As early as A.D. 1470 Mohammed II. intrusted their formation to Mollah Koshrew, and under the reign of Suleyman I. they were completed by another eminent lawyer, who added to them intercalary explanations from the writings of the most celebrated Mohammedan divines. There is besides a collection of all the *fetwas* or decisions pronounced by the different Muftis, which very much tend to facilitate the application of the laws in the courts of the empire. Now it is certain that in the most despotic states laws, though not by the theory of the constitution binding upon the prince, and though made, repealed, and suspended at his pleasure, yet if reduced to a known system, produce an effect both on the people and on the rulers; and while the former are accustomed to comply with the fixed rules and to expect their enforcement, the latter become averse to change or break in upon them in ordinary circumstances.

The government is still exceedingly bad; it is full of op-

pression and even of cruelty and individual suffering; and above all, a constant sense of insecurity is largely occasioned by it; yet still it is not quite so bad as from the theory might be expected, and as a similar government when established in smaller and less refined states is sure practically to prove. In such petty despotisms as these the scenes are constant and the atrocities habitual, which in a great state like the Turkish Empire only take place occasionally, although the absolute power of the sovereign and the great insecurity of the people is the same in all. The monarch with his own hand butchering his subjects; ordering the destruction or the confiscation of their property; laying waste a town or district at which he or his favourites have taken offence; putting to death his wives or mistresses from jealousy, or in a fit of anger—these are the constant occurrences in such smaller states, and very far from being unfrequent in the more extensive ones. Travellers, indeed, tell us of a prince, who nodded repeatedly at an audience, on a verbal communication being made to him, without any interruption to the ceremonial of reception, and sent by each motion of his head so many persons to immediate execution.

In one act of cruelty and selfishness all the despotic princes of the East who are of Turkish descent, both in the greater and lesser states, equally indulge. To remove the dangers of competition for the throne, they often put their nearest relations to death, or reduce them to blindness, and almost always confine them closely as state prisoners. The custom of polygamy, by multiplying these relations indefinitely, loosens, if it does not take away, all ties of family affection; and it is in some countries a usual thing to kill the younger brothers and to put out the eyes of the adults, or to blind them by holding a red-hot iron near them for a few seconds.

As the great and fundamental rule of the Turkish government is the absolute power of the Sultan,—his uncontrolled dominion over the whole State and all its inhabitants,—both by the temporal and spiritual law of the country, those who have treated of the constitution of Turkey have seldom entered into any detail respecting its arrangements, satisfied that these must all begin and end in the will of the Sovereign. Hence some, who from the accidental circumstance of residence in the country had acquired more minute

knowledge of those arrangements, and had also, besides the pleasure of showing their superiority a leaning in favour of the system under which they had lived, have undertaken the defence of its practical operation, and even in some sort of its principles, which they conceived to have been unfairly stigmatised by preceding writers. It may be sufficient, perhaps, to observe upon this charge of exaggeration, that even if it were true that some authors omit the consideration of those checks which in practice act upon the absolute will of the Sultan, and if they do thus represent his personal caprice as more the rule of the government than it really is, little, if any, difference would be made in the idea still first to be retained of the system. The most despotic of monsters cannot be perpetually exercising tyranny over the most helpless of slaves; and as he must lay down some sort of plan for his own convenience, this becoming in course of time the method ordinarily followed of exercising his power, it will be some kind of protection to those under his sway, because it will save them from that blind and shifting rule, which has justly been termed the worst of servitude. A sovereign cannot well be more arbitrary than if he possesses the power to make and unmake laws at his sole pleasure, to follow or depart from the rules laid down by himself and his predecessors for the exercise of their unlimited authority. As for the duties which it is said he is bound to perform towards his subjects, in virtue of the same religious code that binds his subjects to obey him, there is exactly this difference between the position of the two parties, that they are compelled to perform their duty towards him by the ordinary course of the government; whereas he is at liberty to perform his duties towards them or not as he pleases, and knows no compulsion or restraint until things are brought to the verge of resistance, that is, knows of no real check except the apprehension of a revolution, a change of the government or of the dynasty. In the nature of things, every government, how despotic soever, must be subject to this check, and the difference between an Absolute and a Limited Monarchy is only this, that as long as the existing form of government lasts, the one is uncontrolled and unopposed, while to the encroachments of the other the existing form of government opposes resistance—that the despot is only checked by his own personal fears of a revolution, whereas the constitutional king is checked by the ordinary

powers of the constitution. The supreme power of the English government, that is the power of the Legislature, is as absolute as that of the Sultan; it can abolish all laws, and act in the face of them without any notice of having changed them; can disregard all individual rights, harass and oppress whole provinces, or any individual, and can commit the grossest injustice. There is, there can be, no possible restraint on this power, but the conscience, the feelings, the different characters, the conflicting interests of the authorities which compose the legislature, and the dread of revolution which would operate in extreme cases of violent attempts against the people. The difference between this case and that of Turkey is, that the same power, and not a degree greater, resides in one man and his creatures: but then this difference is indefinitely great: it amounts to the whole difference between an Absolute Despotism, or the worst government which can exist, and a limited government, affording the only kind of security against tyranny and abuse which is possible in the nature of things.

This general observation may suffice to answer these panegyrists of the Turkish government. It may, however, be as well that we should examine a little more nearly their topics of defence, because the detailed consideration of these will convey a fuller knowledge of the workings of an absolute monarchy, as well as give additional illustration to the preceding remarks. It is furthermore impossible, without such a minute survey of the government, to form an adequate notion of the means taken by all its institutions to root profoundly in the people the most absolute submission, and to protect the sovereign from any resistance to his authority.

The foundation of the whole Turkish law is laid in the Koran or Mohammedan scriptures; and here the absolute power of the sovereign is distinctly pronounced, and the duty of passive submission to his will inculcated upon all as a duty to God immediately rendered. Indeed, this precept follows from the position filled by the Sultan, as Mohammed's descendant and representative, and as supreme head of the religion itself; for the Koran, prescribing to the people their duties, reserves privileges or power to Mohammed alone, whom it exempts from all laws. The religion of the Turks, moreover, and their belief in a future state of

rewards and punishments, is a lively and constantly active principle. A practical submission to the will of the sovereign is considered a passport to Paradise; and hence, whoever is not in open revolt against him, receives if he cannot evade it the order for his execution with devotion, and kisses the paper, called a *Hatti-sherif*, that contains it. So the extension of the Mohammedan religion by all means is an object constantly nearest the heart of all Moslems; insomuch that old women have bequeathed their fortunes as rewards to such as shall have exterminated a certain number of infidels. The Koran however forbids the employing of force for the propagation of the religion of Mohammed; it opens the gates of salvation to all who believe in God and do good works; declaring that prayer and fasting, benevolence and charity are the means of admission to the presence of God.

Add to all this that the Koran, which is the Turk's rule of life, not only invests the Sultan with unlimited power, but secures him against all approaches of a competitor. It holds all men to be absolutely equal, excludes every notion of a nobility, destroys all respect for hereditary distinctions, and regards every one of the people as absolutely on the same level with all his fellow-subjects, unless in so far as he happens at the moment to enjoy the sovereign's favour, from which if the moment after he should fall, he must sink into the mass of the community.

The defenders of the Turkish government, beside pointing to the obligatory force of the Koran upon the Sultan, in respect of the duties which it inculcates (a topic already adverted to), dwell upon the course of administration settled by usage—for it amounts and can amount to nothing else. This consists in the appointment of the great officers or dignitaries of the state, and their union in the Divan or Council, which used to meet regularly five times a-week for the transaction of public business. Beside its judicial functions, as a court of appeal from bashaws of provinces and other persons who act as judges, this council deliberates upon all questions of policy and all petitions of individuals; it is also said to sanction the execution of all persons whom the Sultan may be pleased to destroy; and we are desired to believe that no such execution can take place without their decision, the sentence being recorded by the Mufti or High Priest

in his own hand-writing. If this were so, the check on the sovereign's caprice would be but feeble, considering how the Divan is composed, and how it deliberates. The Grand Vizier, the Mufti, the ministers of the foreign, the home, the marine, and the artillery departments, with certain bashaws and other functionaries, said to be irremovable without a sentence of the Divan, but forming a minority of the whole council, constitute this body; and all its sittings are held in the presence of the Sultan, who, though not sitting at the same board, yet hears every word that is said from behind a grating communicating with his apartment. Now all the members are named by him, and a majority* are admitted to be removable at his pleasure; but, in fact, the whole are so substantially; nor would it very much signify if they were all irremovable; for, consider from what class they are all chosen. In the Seraglio (which is a vast circuit of several miles round, and devoted to the palaces of the Sultan, his wives, and other female favourites) there is a school, called the *Hasoda*, established for training young slaves of both sexes, brought thither from various parts of the world when mere infants. The girls are destined to replenish the Haram or women's apartments; the boys to become servants of the state—that is of the emperor. Under the savage dominion of the eunuchs, who fill the highest offices in the household, these boys are trained up in habits of the most servile submission, and inspired from their tenderest years with the greatest devotion to the Sultan's person. The rule of Turkish policy is inflexible, that from this class must be chosen the grand Viziers, the Mufti, and all the other ministers and officers of state. It is difficult to suppose that men so educated should offer the least resistance to their master's will when sitting in

* The dignitaries said to be irremovable are clearly a minority; for the Divan consists of the Grand Vizier, Mufti, Caimocam (Governor of Constantinople), Reis-Effendi (Foreign Affairs), Testedar-Effendi (Finance), Kiaga Bey (Home Affairs), two Cadileskars (Ministers of Justice for Europe and Asia), Thersana-Emini (Minister of Marine), the Aga or general of the Spahis, Topgy-Bachi (General of Artillery) Capitan Basha (Admiral)—in all thirteen, and six Viziers of the Bench, and whatever Bashaws may be in Constantinople of a certain rank, who retain their titles after losing their provinces. But then the Sultan may at any moment order them away on any other service, supposing it to be of the least importance which way the majority in the Divan votes.

divan, whatever authority their deliberations might be invested with.

The power of the Sultan, when delegated, whether to the grand Vizier or to the governors of provinces, is absolute in their persons; but it is jealously watched—that of the vizier by the divan and the Sultan himself, that of the bashaws by their provincial divans or councils, which are required to concur in all their operations of any importance. Hence the delegation has as little tendency as possible to check or weaken the central supreme power.

So the insignificance of all other persons inculcated by the religion and maintained by the institutions and by the customs of the country, has the same tendency to protect the sovereignty of the chief. There has hardly been any example in Turkey of great office enjoyed by several persons belonging to one family; that of Reciperli, originally a boy kidnapped by an Algerine corsair from the coast of Sicily, and carried as a slave to Constantinople, is generally cited as a rare exception to this rule of Turkish policy. Accordingly, in the whole Ottoman empire, though there may be powerful individuals—that is, persons invested with authority under some one prince—there is no such thing as a powerful, or even distinguished family, unless in some province, as Egypt, of which the Bashaw has rebelled and set up for himself.

In fact, the only check to the Sultan's capricious and extravagant exercise of his arbitary power is to be found in the risk of the people rebelling if he carried it constantly to excess; and, above all, if he violated the religious usages of the country, and openly flew in the face of the Koran's provisions; for the religious feeling of the Turks is so universal and so vehement, that they, who will submit to any tyranny, are easily roused by inroads upon what they deem sacred things. Accordingly, considerable influence even over the Emperor himself is possessed by the Mufti and by the Ulema, or Doctors and Students of the church and law; because these enjoy considerable influence with the people. The chiefs, however, are all appointed by the Sultan, and all removable at his pleasure. It is only the Imaums, or priests of the different mosques, the parochial clergy as we may call them, whom he does not choose, and who are elected by the com-

munity. They are ignorant men in general, and, being paid only by small salaries from the government, have little influence beyond what an exemplary life may give them.

It has frequently happened that Sultans who neglected the religious ordinances of the country, or other established superstitions, and violated the sanctity with which these clothe certain observances, have been denounced by the Mufti or others whom he instigated; and several instances have occurred of Divans assembled in the Mosque of Santa Sophia, to decide upon the tyrant's deposition, and the elevation of his brother or other relative to the throne. His death in such cases follows almost as a matter of course; and it may reasonably be questioned if there ever was any well-authenticated instance of this kind of revolution without the impulse having been given by the partisans of some rival prince, or other competitor for the crown. The topics used to inflame the council and the people on such occasions are always the violation of established usages, and especially of the precepts of Mohammed. It is remarkable enough that in most of the instances on record, one of the acts of the Sultan which gave the most general offence was his marrying some favourite; in one case his intending to marry the Mufti's daughter, contrary to her father's remonstrances; for it is a sacred rule of the Ottoman government that the Sultan never shall contract any marriage, so that on the one hand the successor to the throne shall have no legitimate relations, and on the other no foreign alliances with Christian powers ever shall be contracted.

Notwithstanding that the administration of justice is in the hands of a distinct body of magistrates whose duty it is to determine according to the code of laws prepared from the Koran for their guidance, and according to the Fetwas of the Mufti, yet it would be too much to affirm that therefore the Turkish people have the advantage of a fixed and known law, for a protection to their rights and guide of their conduct. If the code Napoleon occasions in its application numberless litigations, conducted by the most able advocates and judged by the most learned magistrates, and if the vast multitude of commentaries which have been made on it in less than half a century have not been able to make it easily and certainly applic-

able to the cases daily arising; how is it possible that the rule of life, in all its details and varieties, should be still found in the crude rhapsody of the Prophet, written twelve centuries ago, commented on by men usually ignorant of all other jurisprudence, interpreted by judges of scanty acquirements, and argued on by the still more ignorant parties themselves, in courts which, though they have the merit of being open to the public, are yet, by the positive and invariable rule of the country, attended by no professional advocates whatever? It is clear that a country in such circumstances, instead of having the inestimable blessing of a known and fixed code, has hardly anything that deserves the name; and that each Cadi, Mollah,* or other judge, is enabled, in almost any disputed case, to decide exactly as he pleases. A position can hardly be conceived more favourable than that of the Turkish judge for the exercise of oppression and corruption; nor one which better fits him who fills it for being the tool, rather than the mitigator, of arbitrary power in the Sovereign.

The result of our inquiry then is, that fear of revolt, chiefly in cases of outrage to the religious feelings of the people, is the only check on the Sultan's abuse of his despotic power; while on its ordinary exercise there can be none whatever. Yet, partly from this cause, and still more from the precarious hold which all the possessors of arbitrary authority must ever have, it has happened, as might be expected, that with all the provisions which the Turkish system makes for securing the Sultan upon his throne, no crown in Europe so frequently passes from one monarch to another. In less than three centuries and a half there have been above twenty-four successors of the Prophet on the throne of Constantinople—being less than an average of sixteen years to each reign. In France and England, during half the same period, there have not been more than ten in the one country, and seven or (reckoning the republic one) eight in the other; although during that period there was one revolution in the former, and three or four in the latter state. So frail a thing is despotic power in its substance and groundwork, how solid

* Cadi is judge of a small, Mollah of a great district. Each Bashaw, too, has high judicial powers in his province.

and awful soever may be its outward form; and so well founded was the remark which Marshal Destrées drily made to Louis XIV., in answer to an exclamation of that prince upon the authority of the Sultan—"That is indeed something like reigning!"—"True, sire; and I have seen two or three Sultans strangled in my time." The marshal had been for a few years ambassador at Constantinople.

The Mussulmans carried their conquests into PERSIA eight centuries earlier than the period of their settlement in Greece. The immediate successors of Mohammed overthrew (A.D. 636) the dynasty of the Sassanides after it had subsisted four hundred years, and established his comparatively pure religion, debased however by fables respecting his mission and life, upon the ruins of the Persian idolatry. The Tartars afterwards, and then the Mongols or Moguls, obtained the sovereignty of the country; and in late times the Afghans, and then the Tartars again, were its masters. But, during all these changes, the government and generally the institutions of the nation have remained the same; and the Koran here as in Turkey forms the basis of the civil polity, as well as of the religious belief and observances; for the faith of the Turks and Persians only differs in this, that the former being followers of Omar acknowledge the Sunna, a commentary on the Koran, as inspired; while the latter, being of the sect of Mohammed's son-in-law, Ali (whom they hold to have been a prophet), regard those books as apocryphal. Such however we may note in passing is the natural hatred of sects which approach near one another in their tenets, that the Turkish doctors after the Sunna texts pronounce it more pleasing to God to kill one follower of Ali than six-and-thirty Christians.

The absolute power of the sovereign is, of course, as entirely a fundamental rule of the religion and the law of Persia as in that of Turkey; and the functionaries among whom he distributes the exercise of his authority are no more here than there any real check upon his individual will. The prime minister, called in Persia formerly the Pillar of the State, and now as in Turkey the Grand Vizier, or chief porter (from bearing the burden of the government), has the whole supreme power delegated to him, and has also the department of finance, foreign affairs, justice and war,—the chiefs of those branches being only officers under him.

He does not make his reports to the prince directly, unless on journeys and expeditions, but through the eunuchs who hold the offices in the seraglio or household, and who filled also the great public stations of the empire for nearly two hundred years during the effeminate dynasty of the Sofys, overthrown early in the eighteenth century. The Divan is not held so regularly as in Turkey for the administration of the government, but in other respects its functions are the same, excepting that no instances can be cited of its interference to depose a sovereign, of which we have seen several examples under the Turkish government. That the sovereign is somewhat more arbitrary than in Turkey, or rather that he has somewhat less to fear from indulging in capricious tyranny, setting at defiance the laws, and insulting the religious as well as humane feelings of the people, may be inferred both from the more violent character of the Persians and from the Ulema having a less regular existence, and consequently less weight; for to say, as many writers have done, that it has no existence in Persia, is quite incorrect. There is a clergy, and these are the dispensers of justice; they have also dignitaries of various ranks among them; consequently, although the name of Ulema is wanting, a body of the same kind exists. There are, however, some important differences between this and the Turkish Ulema. A line is distinctly drawn in Persia between the Shirh or written, and the Ourf or common, that is, customary and traditional law, which also varies in each province and in every court of the same district. The former is in the Koran, the books of the Sunna being held of no authority by the Persians; and the clergy administer this law exclusively. The latter is administered by civil magistrates whom the king appoints, listening however in the different districts to the voice of the inhabitants upon the selection of the Sheik al Islam or principal judge, though not as to the Cazis (Cadis) and Mollahs. The clergy constantly maintain a contest with the civil power as to the limits of the two conflicting jurisdictions; maintaining that the Ourf only has lawful cognisance of such offences as concern the public peace, and that the Shirh courts ought rightfully to decide in all cases of marriage and divorce, inheritances, and contracts. But these pretensions are wholly disregarded by the civil power, which

almost confines the ecclesiastical jurisdiction to questions purely consistorial, such as marriage and divorce. The vagueness and uncertainty of the Ourf or unwritten law leaves still more in the power of the magistrate, than the necessity of applying the written law to practice and of construing it leaves to him in Turkey. This then as well as the restriction upon clerical authority and its conflict with the civil power, renders the body of the clergy and the law a feebler restraint on the government in Persia than the Ulema proves in Turkey. Besides, there is no Pontiff or High Priest over all, answering to the Turkish Mufti. The Sadi al Sîdîr, who formerly exercised this authority, was abolished by Shah Abbas at the beginning of the seventeenth century; but his successor, Sefi, renewed the office, only he greatly lessened its influence by creating two high priests, of whom the one called the people's had far less jurisdiction than the other called the prince's. Nadir Shah, about a hundred years ago, abolished both offices, as well as confiscated the estates of the church, and reduced the dignity to a mere nominal one, which is enjoyed with a pension by a Persian family. Since this change the three Mûdtjeds have acquired additional weight, and although they have neither office nor revenues, yet their influence is considerable, as men of great learning in the laws, of exemplary life, and who scrupulously abstain from all intercourse with the Court. They are ecclesiastics, and are consulted on all nice points by the Shirh courts, in which on great occasions they preside. In consequence of their knowledge, their character and their disinterestedness, they have always great influence with the prince, to whom they frequently appeal in behalf of the oppressed.

Subordinate in rank and authority to the Mûdtjeds, but at the head of the Shirh department, is the Sheik al Islam, or Chief of the Faith; and formerly there used to be a still more powerful personage at the head of the Ourf, called the Divan Beggy; but Nadir Shah suppressed this place, and since his time the king is the acknowledged head of the common law. As in Turkey, justice is administered to the provinces through the governor, who has power of life and death only when he is a prince of the blood, or in troublesome times; in other cases the sovereign himself retains this prerogative. As in Turkey, too, all courts are attended

only by the parties without advocates, and all causes, civil and criminal, are despatched with a rapidity which makes justice eminently uncertain and constant errors inevitable. The only thing like a control of mere caprice, or guard against actual corruption, is the invariable practice here, as in Turkey, of judging in open court. That the law is considerably more barbarous however may be gathered from the usage, from time immemorial established in Persia, of delivering over the convict to the party injured, or his heirs in the case of murder, and these may either forgive him, or bargain with him, or put him to death, and in what way they please, with their own hands. When we feel shocked at a usage so contrary to all the principles on which criminal justice can be grounded, let us not forget how recently an absurdity quite as revolting, if indeed it was not worse, and of the same kind, has been removed from our own jurisprudence. It is not a quarter of a century since wager of battle was part of the English law, whereby the relations of a murdered person might be called upon to defend themselves in single combat against the murderer, if they prosecuted an appeal after his acquittal; this appeal being given them avowedly for the purpose of enabling them to make terms with him, and obtain a recompence in money for their kinsman's death.

The revolt sometimes, more generally the discontent of powerful Beglerbegs or governors of provinces, and the brave and independent habits of the nomadic or wandering tribes, chiefly of Tartaric origin, who form part of the population, impose more effectual restraints on the sovereign's power in Persia than any institution in the State. But the people suffer for all the disputes between the court and the provincial governors. Whenever the sovereign compels the latter to pay a sum of money, either towards the expenses of the state or for the use of the prince, the most grievous exactions are the result. Nor does the ready ear always lent by the sovereign to complaints against his officers, which in ordinary cases affords a substantial security to the subject, in this case at all avail him; for the sovereign must here connive at whatever has been done. The presents given by all persons in authority, whether provincial or central, belong to this head, and are said to be nearly two millions sterling a year, or two-thirds of the regular revenue, which is estimated at three

millions. Sir John Malcolm knew one Beglerbeg who for several years had given between eighty and ninety thousand pounds; and Mr. Morier saw the offering of another chief, which amounted to above half as much. In raising the sums for these presents, the different functionaries employ the same oppressive means to which they are driven when called upon to pay occasional requisitions; and the people are equally without redress. Even the regular revenues are collected with endless oppression and a multitude of abuses; for, instead of fixing what each person has to pay, a sum is furnished by one superintendent of revenues, who is suffered to obtain this from those under him, with as much more as he can, to indemnify himself and his agents; and by whatever means he pleases. We may form some idea of the sufferings which the people undergo from this source, as well as of the rapacity with which the chief collectors, or intendants-general of provinces require the *zabits* or district collectors to pillage the community under their care, from the answer sarcastically given to a governor by an ancient councillor, when asked what punishment should be inflicted on a famous robber just seized,—"Make him sub-collector of his district; and his punishment, between the exactions of his superiors and the groans of the people, will be enough for any crimes he can possibly have committed."

It has not so often been pretended by writers on Persia as by those on Turkey that the prince is less despotic in practice than in law. Indeed, the more cruel character of the Persian, joined to the taint of falsehood, which so discreditably contrasts him with the Turk, makes the history of the country much more glaringly a succession of arbitrary and savage acts. The mere brutalities exercised in war by enraged conquerors are perhaps to be laid out of view in estimating the practical effects of despotism upon the two classes of its victims, those who exercise its powers and those who suffer under them. But the Persian annals are one continued example of its frightful influences.—The first Afghan prince assembled all the members of the dethroned Sofy dynasty, and butchered them in his palace with his own hand.—The practice of putting out the eyes of their nearest relatives whom they might dread as rivals is the ordinary rule of conduct with the Persian sovereigns, and appears

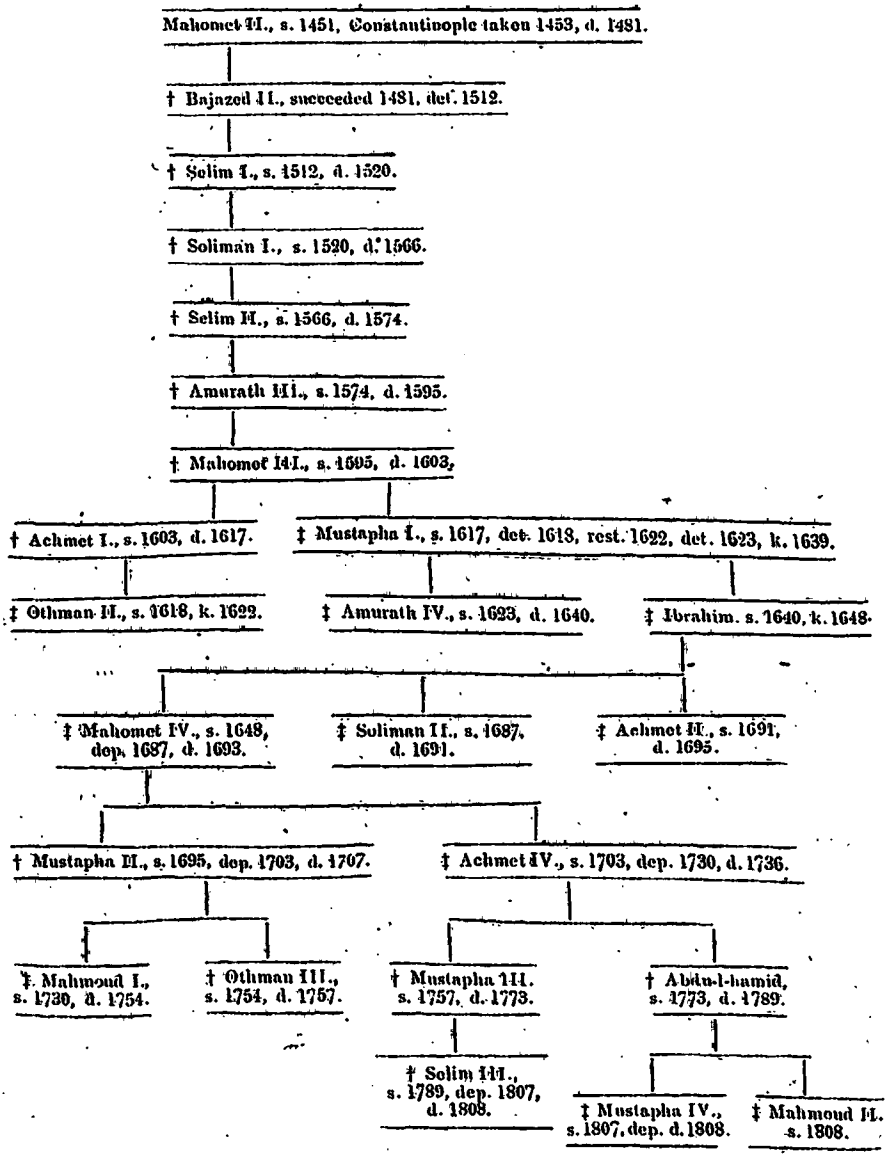
to have been so in all ages.—Nadir Shah, who, from a free-booter, had made himself sovereign, invaded India, seized all the countless treasures of the Moguls; and in consequence of an attack made upon his army at Delhi by the inhabitants, who believed him to have died, he ordered a general massacre of the people, in which, according to a Hindu historian 8000 persons perished, or as others say 120,000.—On his return, having learnt that his son was party to a treasonable plot, he, without inquiry, put out his eyes; and when he found the report was groundless, he flew into a paroxysm of rage, and cut off the heads of his Persian subjects by hundreds, piling them in pyramids wherever he went. He was himself put to death by some of the principal officers of his court; but his nephew and successor claimed to be the author of the deed in his proclamation on his accession, inveighed against his savage uncle's cruelties, and having assumed the title of "Just," immediately put to death twelve of Nadir's sons and grandsons.

The reign of Kerim Khan affords nearly the only exception to the character of cruelty and perfidy, which all the others uniformly bear. But no sooner did he terminate his truly glorious life, universally revered and lamented, and worthy to be placed by those of Trajan and the Antonines, than three of his surviving sons had their eyes put out by Akber Khan their cousin, and Saaduck their uncle; and the fourth was mutilated. This person, Mohammed Khan, called Agha Mohammed, is one of the ablest and most celebrated princes in eastern history; endowed with the greatest capacity and schooled in adversity, but in that adversity which, consisting of vast and sudden reverses of fortune, is found far from being favourable to virtue. He murdered or mutilated all the branches of the family whose rivalry he could suspect as possible, on his accession. He massacred or put out the eyes of 20,000 persons of all ages, at the town of Kermon; and in a fit of passion against a soldier who had saved his life and reminded him of his promised reward, he suddenly put out the poor man's eyes. His method of raising supplies when he desired to gratify his excessive avarice, was to order some rich courtier to pay a sum, and then sell this order to some speculator, with the power of torturing the person assessed in any manner most likely to be effectual, short of death. This

tyrant died only some forty years ago, being assassinated by two slaves whom he had ordered to be killed for quarrelling and making a noise, which disturbed him. One of the very last sovereigns was only prevented from putting to death and despoiling a courtier, whose enormous wealth (four millions sterling) tempted his rapacity, by that individual judiciously adopting a prince of the royal house, to the exclusion of all his own relations. Finally, it is the practice in Persia as well as Turkey to provide for any of the females in the seraglio, by making whoever the sovereign pleases marry them; and this, especially when one of his family is the party, becomes to the husband the source of innumerable vexations: still worse is the frequent case of some poor man upon whom a female of the seraglio is inflicted, in order to punish her.

If the power of the Persian princes be somewhat more unbridled than that of the Sultan in Turkey, the instability of their rule is still more remarkable, and the tenure of their individual possession more precarious. In France there were but three dynasties on the throne, from Charlemagne to Louis XVI.; in England but six, from the same period—the end of the eighth century. During these ten centuries, no less than thirteen changes of dynasty have taken place in Persia. In the eighteenth century, which saw so few individuals succeed each other in any of the European kingdoms, no less than twenty-one Persian Sovereigns reigned; being, exclusive of Kerim Khan, not five years to each. But that illustrious prince ruled from 1753 to 1779—a glorious period of six and twenty years, and left the State to the same succession of wicked princes, and short and precarious reigns, as had composed the annals of the country before his accession,—a sad proof how little the happy accident, so rarely occurring, of a good prince in a despotic government can avail against the corrupting influence of its institutions.

I.—TABLE OF TURKISH SUCCESSION, FROM THE TREATY OF CONSTANTINOPLE, 1453.

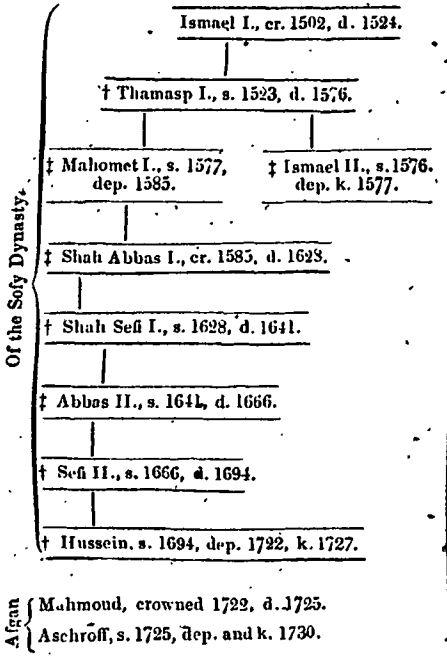

Mahomet II., s. 1451, Constantinople taken 1453, d. 1481.
† Bajazet II., succeeded 1481, dep. 1512.
† Selim I., s. 1512, d. 1520.
† Soliman I., s. 1520, d. 1566.
† Selim II., s. 1566, d. 1574.
† Amurath III., s. 1574, d. 1595.
† Mahomet III., s. 1595, d. 1603.
† Achmet I., s. 1603, d. 1617.
‡ Mustapha I., s. 1617, dep. 1618, rest. 1622, dep. 1623, k. 1639.
‡ Othman II., s. 1618, k. 1622.
‡ Amurath IV., s. 1623, d. 1640.
‡ Ibrahim, s. 1640, k. 1648.
‡ Mahomet IV., s. 1648, dep. 1687, d. 1693.
‡ Soliman II., s. 1687, d. 1691.
‡ Achmet II., s. 1691, d. 1695.
† Mustapha II., s. 1695, dep. 1703, d. 1707.
‡ Achmet IV., s. 1703, dep. 1730, d. 1736.
‡ Mahmoud I., s. 1730, d. 1754.
† Othman III., s. 1754, d. 1757.
† Mustapha III., s. 1757, d. 1773.
† Abdul-l-hamid, s. 1773, d. 1789.
† Solim III., s. 1789, dep. 1807, d. 1808.
‡ Mustapha IV., s. 1807, dep. d. 1808.
‡ Mahmoud II., s. 1808.

From Mahomet II. to Mahmoud II. (327 years) there have been 23 successions—of which 12 regular and 11 irregular. In the first 100 years the whole 5 were regular. In the next 100 years there were 7 successions. During the third 100 years 11 successions, 5 regular, 6 violent.

k. killed; s. sultan; d. died; rest. restored; dep. deposed; † regular succession; ‡ irregular.

NOTE.—A succession is given as irregular if the Prince comes out of his turn in any way.

II.—TABLE OF PERSIAN SUCCESSION, FROM THE FOUNDATION OF THE SOFY DYNASTY, 1502.


Of the Sofy Dynasty.
Ismael I., cr. 1502, d. 1524.
† Thamasp I., s. 1523, d. 1576.
‡ Mahomet I., s. 1577, dep. 1585.
‡ Ismael II., s. 1576, dep. k. 1577.
‡ Shah Abbas I., cr. 1585, d. 1628.
† Shah Sefi I., s. 1628, d. 1641.
‡ Abbas II., s. 1641, d. 1666.
† Sefi II., s. 1666, d. 1694.
† Hussein, s. 1694, dep. 1722, k. 1727.
Afgan
Mahmoud, crowned 1722, d. 1725.
Aschroff, s. 1725, dep. and k. 1730.

Sofy.
- Thamasp II. s. 1727, det. 1732.
- Abbas III., k. 1732, d. 1736, an infant.

Nadir.
- Nadir Shah (Thamas Koulikhan), regent 1732, cr. 1736, k. 1747.
- Aly Adil (Nadir's nephew), dep. and k.
- Adil Rokh (Nadir's grandson), dep., rest., dep.
- Soliman, cr. —, dep.
- Achmet, cr.
- Aly Merdan.

Zend Dynasty.
- Kerim Khan.
- Zuckee, dep. and k.
- Abul Uffeh, deth., rest., dep.
- Aly Moored, dep.
- Saduk, dep. and k.
- Jaafer, k.
- Loutf Aly, dep. and k.

Cadjar D.
- Aga Mahomet, k.
- Futteh Aly.
- Mohammed Mirza.

Five dynasties, and 28 successions in 300 years; 15 sovereigns dethroned, or killed, or both.

s. succeeding by blood; cr. crowned, and not succeeding by blood; the other marks as in previous Tables.

CHAPTER IV.

MONARCHIES OF THE EAST.—*(Continued.)*

Other Eastern Monarchies less known in ancient times—Differ more widely from European Nations—Reason why many of their Governments need not be particularly described—*Birman Empire*, or Kingdom of Ava and Pegu, to be more fully considered—General View of its History—Government—Bearing of the Religion upon the Power of the Sovereign—His absolute Prerogative—Clergy—Their Merits as Educators—General Tolerance—Judicial System—Council and Ministers—Absence of Hereditary Rank—Payment of Public Functionaries by Perquisites resembling the Arrangements of the Feudal System—Progress accidentally made in Improvement—General Submission of the People and Supremacy of the Sovereign—Cruelties exercised—Insecure Tenure of Power—Reason for postponing the Consideration of the Chinese and Russian Governments.

THE two nations whose institutions we have been considering were at all periods of their history well known to the western states of Europe, and more or less intimately connected with them in the relations of peace and war. The conquest of Greece by the Turks did not insulate from the rest of Europe that country, which under its native princes had held so distinguished a place among the civilised portions of the world; and indeed the progress of the Turkish arms, at one time so formidable to the other states bordering on the Mediterranean, only brought the new masters of the Levant into more close connexion with the people of the West. The Persians, both in ancient and modern times, were related to the Greek powers as enemies or as friends, and have had some communication with other powers, even through the access of the Mediterranean, but still more through the Indian Seas since the discovery of the passage by the Cape of Good Hope. Although the national manners and the political institutions of Turkey and of Persia differed widely from those of Western Europe, the difference was far less than that which distinguished the Asiatic nations further to the East—nations which until a very recent period had no intercourse at all with Europe beyond the accidental visit of a few travellers, a scanty traffic on their frontiers, a single warlike expedition in a remote

age attended with no permanent results,* or another march in times yet more distant and involved in the mysteries of fable.†

The countries of India, under which name we include the vast region between the Himalaya Mountains on the North, the Indus on the West, and the Chinese Empire on the East, have, for a succession of ages far beyond the reach of authentic history, been subject to the same kinds of government, marked by the same peculiarities of customs, and the abode of the same singular institutions, which to this day are so well calculated to excite the wonder of the stranger. Whilst the portions of Europe now most civilised were yet in a rude state these Eastern nations had attained a considerable degree of refinement; but they remain at this day nearly as they were between two and three thousand years ago. Their religion, their laws, their customs, their character, resemble nothing that is to be found among the nations of the North and the West. Among themselves they have somewhat more of general resemblances; but they are also distinguished by remarkable diversities. Thus the countries of Hindoostan or India on this side the Ganges have the institution of Castes, or a division of the whole people into several tribes, which (according to their original rules long since however neglected) follow from generation to generation each its own occupation and never intermarry with one another—an institution also established among the ancient Egyptians; but Castes are wholly unknown to the nations beyond the Ganges; the religion and laws of both those portions of India also materially differ; Buddhism being the religion of the nations to the East of the Brahmapootra, whilst the nations of Hindoostan generally profess the religion of Brahma; and in all of them the laws (as in Mohammedan States) are founded on the religion. Another circumstance equally distinguishes the Indians of the two regions. The people of Hindoostan are somewhat inactive in their habits, brave enough when trained and led on by more hardy captains, but naturally averse to warlike occupations. Their more Eastern neighbours are irascible, vehement, active, daring; they are, if not cruel, yet fierce by nature and easily led to take cruel courses: nor do they require discipline or the example of bold leaders to confront danger; their genius is

* Alexander the Great's Conquests, 326 B. C. † Bacchus's Conquests.

warlike and they court the risks as well as the hardships of the field.

It will not be necessary here to consider more particularly the governments of those countries which of late years have ceased to be independent, and which have now only in name a separate existence. Here and there we can still find a native power in Hindoostan (called British India from our immense preponderance there), but the greater number of the states, whether Mohammedan or Hindoo, are either in substance united with our dominions retaining the shadow of independence, or are actually, name and all, swallowed up in our vast empire. A sufficient sample of all these native governments will be found in examining more nearly the constitution of the Birman Empire or kingdom of Ava, now also comprising its conquest of Pegu, an empire covering a surface nearly double the area of the British Isles, inhabited by a people variously estimated between fourteen and four millions in number, subject for a long course of ages to a regular monarchical government, and which during all that time has attained a great degree of civilisation.

The country extending east of the Ganges to the Chinese seas is composed of five great kingdoms; Arracan and Asam, next to British India and now under the dominion of the East India Company; Ava, Pegu and Siam. Of these, Ava the territory of the Birmans is the most important. Ava was originally subject to Pegu but threw off this yoke about the middle of the sixteenth century, and, overpowering the Peguans, kept them in subjection till about the year 1740, when the latter revolted and after a ten years' war defeated the Birmans, dethroned their king and reduced Ava to the condition of a province, which they governed by a viceroy. Two or three years however only elapsed before a man of great genius and courage arose among the Birmans and restored first their independence, then their empire over Pegu. This was Alompra, a person of very obscure birth but endowed with extraordinary capacity for the affairs both of peace and war. The insulting conduct of the Peguan government operating upon the proud spirit of his countrymen enabled him to effect this change, which would not have taken place had the Pegu princes suffered the capital of Ava to remain the seat of government; for the royal authority was exercised nearly according to the same rules in the one kingdom

as in the other, and the manners and customs of the two nations were entirely alike, although they had taken part in the quarrels of their rulers so far as to regard each other with mutual animosity. These quarrels have kept the two countries in a state of constant hostility, ruinous to their prosperity, as the devastation of their fields and the destruction of their numerous cities show to all the travellers who have visited them.

The Birman Empire is an absolute monarchy, all the laws and all the religious tenets of the community inculcating the most implicit obedience to the sovereign. The religion is that of Buddhism,—a modification of the Brahminical faith professed in Hindoostan, and which seems to reach over the whole eastern parts of India, the greater number of the islands including Japan and Ceylon, such of the Tartar tribes as are not Mohammedans, and to be under a different name (that of Fo) the religion of great numbers of the Chinese. With the tenets of this idolatrous superstition we have now no further concern than in so far as they bear upon the constitution of the civil government. Although the sovereign does not seem to claim any divine honours or to be invested with direct spiritual authority, yet he takes the full benefit of the superstitious veneration inculcated towards the idols and their temples, in order to strengthen his secular authority. Thus a particular form of building is reserved exclusively for the temples of the idol Gaudma and for the palaces of the king: it consists of a small dome or spire made of iron and sometimes gilt and called the Piasah. So too though any one may have pillars in his house, these must be wholly plain and without any gilding or other ornament, except in the temple and the palace. Again, gold is in some sort consecrated to the use of the God and the emperor; it is never coined into money or used in exchange, but all the temples and palaces are loaded with a profusion of it; and everything relating to both the prince and the idol is called "golden," which means the highest excellence. Thus, Schoe Dagon is the Golden Dagon or idol; and the expression for presenting any person or thing to the emperor is that it is "laid at the golden feet;" or for communicating anything to him, that it has "reached the golden ear;" nay, a Birman desiring to mention that the emperor liked a certain perfume could only say that it was "agreeable to the golden nose." These things are according to the ancient

principles of the religion; but the emperor has of late years ordered that no houses but his own and the idol's should be built of brick, or of any materials but cane and lath and mat, whence the natives live in constant dread of fire.

In this, as in the Mohammedan faith, and indeed in the Jewish dispensation also (for it is universal in the East), the code of laws forms part of the religion, and is invested with the same sanction, being derived immediately, as they pretend, from a communication of the Deity. These laws are, generally speaking, built upon sound and even enlightened principles; and while they inculcate submission on the people's part, they prescribe to the sovereign the duties of beneficence and mercy as well as justice; declaring that one-sixth part of all the good done under his reign and through his servants shall be ascribed to himself individually at the day of judgment in estimating his reward; and one-sixth also of the evil in apportioning his punishment—a mode of estimating the merit and arranging the liability of princes prevalent also among the Hindoos. It must however be observed that as far as regards the present life the whole is left to his own conscience; everything is assumed as depending on his individual will and personal character. The same promise and the same denunciation is applied to subordinate magistrates.

In one particular however the priests of Buddhism differ from those of Islamism; they are not the judges nor do they at all interfere in secular affairs, unless in so far as the government consults their astrologers, who from hence derive some influence; but this they cannot be said to use for temporal purposes; it is rather an additional power in the sovereign's hands when he desires to influence the public mind. The priests are without any property or other provision whatever, subsisting entirely upon the voluntary contributions of the faithful, the surplus of which they invariably devote to charity. There are, however, establishments (in some cases richly endowed with lands) resembling the monasteries and nunneries of Roman Catholic countries. The priests and nuns employ themselves with a praiseworthy zeal in the education of the people, who are generally tolerably well taught; for all the artisans, most of the peasantry, and even the sailors (in most countries an ignorant class), are represented as able to read and write, although the books used among them are only such as treat of their religion. The most entire tolerance prevails both among priests and magistrates—another circum-

stance in which the Buddha idolatry presents a very advantageous contrast to the otherwise purer faith of the Mussulmans.

The magistrates are appointed from among the laymen; and the business of Courts of Justice is conducted by professional advocates, and not as in the Mohammedan courts by the parties themselves. Alompra however introduced from the latter the great improvement of transacting all judicial business in open court. Before his time the judges decided causes in secret. But in every case the governor of the district (called the Maywoon) is the chief judge; and though in practice there is only an appeal from his decision to that of the emperor where the matter relates to some public officer, yet in fact all sentences are subject to the king's affirmance or reversal. There is also in each province an officer called the "Royal Ear," who makes constant reports to the emperor of everything that passes.

The administration of the government is intrusted to four ministers called Woungees, which like Viziers signifies porters or bearers of burthens, the two chief of whom have the whole delegated power of the state in their hands. The Woungees meet in council (Lotoo) every day except the Sabbath, and sit for several hours. There are also four other councillors, called Woundoks, but they are only assessors and have no voice. But, as if to guard against any growing up of a substantive authority which in some Eastern states (the Mahrattas* for instance) has been known in the process of time to supersede the prince himself, there are ministers of the interior called Attawoons, who have at all times access to the emperor which the Woungees have not; and he very often decides by their advice rather than that of the Lotoo or council. The Siredraw, or high priest, is appointed by the sovereign, and commands the greatest veneration from his functions. He inhabits a palace of extraordinary magnificence adjoining to the high temple, and has many Rahaans or priests in attendance upon him; but he has no civil functions whatever and never interferes in state affairs.

There is no country where a more strict regard is paid to preserve the distinction of ranks. Hardly any circumstance is suffered to be unconnected with this gradation. We have seen that no subject can encroach upon the prerogative of the sovereign by imitating him in the ornamental parts of building. But each

* The Peishwah is hereditary minister, and the Rajah or prince is a mere puppet in his hands.

rank has its own form of construction for houses, its own kind of furniture, its own pattern of household utensils, its own fashion of clothing; and no one can encroach upon another's mode in any particular without incurring severe punishment. The princes of the blood have their appointed privileges in these respects; but they do not partake of the peculiar fashions allotted to the sovereign; the priest alone, or rather the idol, shares with him in this privilege, to show more distinctly that the prince is on the same level with the divinity. In one particular the Birman policy far excels that of most other eastern nations; no jealousy is shown of the heir-apparent or of the sovereign's other sons; on the contrary, they are held up to the respect of the people, and the next heir is surrounded with a pomp hardly inferior to the royal splendour itself. By this means the power of the family is justly supposed to be consolidated, and the regular succession to the throne secured. By the scrupulous regard paid to rank a similar confirmation is bestowed upon the royal authority, since the habit of viewing all classes as unchangeably placed one above another leads naturally to the like habit of considering the rank of the sovereign as immoveably fixed on the summit of the whole pyramid.

But if this would be the result of such habits even in the case of a hereditary nobility, it is still more likely to happen where, as in Ava, there is no dignity that can endure beyond the life of the holder among the Birmans themselves, or any hereditary right unless among the tributary princes of some of the conquered nations. The crown is not only, as elsewhere, the fountain of honour, but all honours are only granted for a while, and then return again to the donor; so that every one may be said to hold his place in the scale of society immoveably as regards all his fellow-subjects, but still only at the pleasure of the sovereign who put him there. Subject to this men also hold their offices, and even their possessions, by something resembling a feudal tenure. Indeed fiefs, as we shall afterwards see, were in Europe at first not hereditary. The Birman functionaries receive their places without any salary paid by the sovereign or out of the public treasure. Each person receives the emoluments derivable from his office, and employs others under him whose remuneration proceeds from a share in the perquisites received. So estates are given to individuals who receive a portion of the produce of the land, allowing others under them to cultivate it

and to take their share. But in all these instances both the persons immediately holding of the prince and those who hold under and of them are bound both to perform certain duties at all times and to do military service when required in time of war. The first holder is termed the Slave of the sovereign; the subordinate holders are termed the Slaves of the first holder —of him whom, in the language of the European feudalists, we should call the mesne (or intermediate) lord.

From the different character of the people, and from the accident of having had for many years past able princes on the throne, the Birman empire is distinguished by a far more liberal spirit and placed in a much less ignorant condition than the Turkish dominions. Much encouragement is given to the introduction of foreign improvements. The emperor who reigned when Colonel Symes visited the country in 1795 promoted mathematical and above all astronomical science, had a council of its professors and presided over it himself, being supposed to have no little knowledge of the subject. There are some libraries in the great cities, and that of the palace is represented as very extensive and various. The same thing never could have happened there which has been related of Turkey, that the introduction of printing is found impossible, even when attempted by the Sultan, because of the numberless writers whom it would throw out of employment.* It may be added that the Birmans stand distinguished from the other nations of the East in having no jealousy whatever respecting their women. This arises however rather from their less strict regard to their own honour and their less delicate feelings than from any respect for the female sex, because women are uniformly treated by them as beings of an inferior order, and the religion of the country does not teach that they shall even enter into paradise.

In abject submission to the prince there is no people in the East more perfect than the Birmans. From the various causes which have been enumerated the power of the crown is completely sustained, not so much by any military force (for the whole standing army consists but of five or six thousand men) as by the habits of submission which their institutions all tend to favour. The sovereign is quite different in all respects from every one of his subjects; even his birth must be different from theirs; for,

* Twelve thousand at Constantinople alone: and yet the necessity of printing seems evident in a country where each man must have a copy of the Koran.

in order to secure his royal descent both by the father's and the mother's side, incest, strictly forbidden in all other families, is enjoined in the royal house. The impression of the sovereign's superiority is sought to be maintained in all ways, and even by the most extravagant fictions. Every foreign power must be represented as his inferior; every other nation as suing to him for bounty and protection. An ambassador is no sooner announced than every art is used to make him receive, without resenting it, some marked slight or even insult, which may testify in the eyes of the people their emperor's superiority. When reluctantly admitted to an audience he is represented as suing for help. He must join in the servile obeisances of the natives, and the public interests with the foreign state are often sacrificed to the parade of displaying the sovereign's dignity at home. The demeanour of the Birman people, from the highest to the lowest, is that of constant and abject adoration in the sovereign's presence. He sits aloft with a space left vacant before him to the extremity of the hall of audience, in order that his eye may not casually meet those he intends not to honour with a glance. He stares before him on empty air, in order that he may not seem so far to stoop from the heights of his power as to be aware of any other person existing than himself. Meanwhile all his most distinguished subjects, the grand dignitaries of the empire, bend in mute adoration before him, touching first the ground with their hands, and afterwards all the while he is present keeping their bodies in an inclined posture. Nor is it only in external form that this kind of outward worship is the symbol of a prostrate mind. All that belongs to royalty becomes sacred in the people's eyes, and partakes of the possessor's attributes. When a British envoy was residing near the palace of the Birman emperor's son, some goats of the latter broke through the fences of the residence, and as none of the Birman servants durst presume to chase them away, these animals forced their way into the rooms of the house: the native servants saying that those beasts were "Praws," that is to say "Lords," * being partakers of their royal master's rank and privileges. When the members of the embassy drove the four-footed nobles away with

* Praws may also mean "sacred," for in Ava and Pegu everything consecrated to the idol is called Praw. Indeed, the rule is carefully to confound divine and human authority.

sticks, the Birmans were horror-struck at having been witnesses of some sacrilegious rather than rebellious act.*

Although the manners of the people may prevent this excessive power of the sovereign from being uniformly abused, no other bounds are set to it than the character of individual princes and the dread of rebellion may provide, and the worst excesses of tyranny are frequently committed. It is equally certain that the course of succession to the crown is by no means more uniform than in other absolute monarchies. Upon Alompra's death, Schembwan the second son set aside his elder brother, who however soon after regained his succession, but passed his whole reign in opposing two formidable rebellions of general officers (one of whom overran the empire) and in disputing the throne with his uncle. On his death his infant son was set aside and imprisoned by Schembwan, the young prince's uncle, and only saved from being murdered by the courage of an aunt. Among many cruel acts of this prince, one may be said to stand out from the rest as more atrocious than any; one which never could have been risked in countries where the people's opinions or feelings are consulted, or even in those where the upper classes alone exercise any influence. He had taken prisoner a king of Pegu and kept him shut up, or only carried him about in a cage as a symbol of his conquests. After twenty years' confinement he thought proper to have him put to death; and this odious act was performed by the hands of the common executioner, after a mock trial for rebellion. It may be alleged indeed that, excepting in the degrading manner of the execution, our Queen Elizabeth performed a similar act upon the Queen of Scots.

Schembwan was succeeded by his son Chenguza, who immediately put his brother to death, and also despatched some of his uncles, shutting up the rest. In a sudden fit of passion he ordered his favourite wife to be put to death; and this execution was performed before vast multitudes of the people. At length, after many other acts of cruelty and caprice, having given offence to the priests by his open contempt for the religion of the country, they aided a conspiracy to restore his cousin whom Schembwan had imprisoned and left under their care. Accordingly Chenguza was dethroned and put to death. After a short reign of eleven

* Symes's Embassy to Ava, vol. ii. chap. xi.

days the young man was also displaced and killed by his great-uncle, a son of Alompra, in 1782. In this manner, since Alompra's death there had been during twenty-two years no less than six descents of the crown, of which only two had been from father to son. Of all the six princes who thus succeeded only one had taken the crown peaceably. During the period in question, the throne had only been twice filled by the rightful heir. One of those times it had been so filled but eleven days, and the other less than four years, during three of which the country was so much a prey to rebellion that the sovereign could hardly be said to reign at all, and was rather fighting for his authority than exercising it. So uniform is the application of the maxim, that absolute power will in the majority of instances be found as insecure a possession to those who hold it as it is a baneful infliction upon those over whom it is exercised!

Before completing our view of Absolute Governments there are two which remain to be described,—those of China and Russia. But although both of these come within the description of Absolute Monarchies, they differ materially from all the Despotisms which we have hitherto been considering, because they are mitigated in their severity by circumstances of so great force and such regular and constant operation, that they seem to hold an intermediate place between the Monarchies of the East and those of the West—between the Despotic and the Constitutional. The kind of aristocracy of learning and merit which has grown up in China, where also the unwieldy mass of the people is controlled by an insignificant military force, makes the distinction in that vast empire. The constant intercourse with the more polished states of Europe almost equally distinguishes the Russian government. It is fit therefore that we consider these two governments together and apart from the rest; and we shall endeavour to give some account of the government of Japan as an appendix to our examination of that of China. It is convenient then that we should here pause, in order to point out the most remarkable circumstances in the effects of Absolute Monarchy upon the nations subject to it. For the reasons just given we enter upon this consideration before examining the constitutions of China and Russia; but many illustrations of our general remarks will afterwards be afforded by those systems.

CHAPTER V.

EFFECTS OF ABSOLUTE MONARCHY.

Effects of Absolute Monarchy—General Misery and Corruption—Destructive Action on the National Character and on the whole frame of Society—Stationary Condition of Society resulting from it—Singular and accidental Exception—Alleged Advantages of Absolute Monarchy—How far favourable to Unity of Design and Promptitude of Council—Disadvantages attending this kind of Promptitude—Superiority of Absolute Monarchy in Promptitude of Action—Office of Dictator at Rome—Comparative View of the Advantages of Absolute and Popular Governments in War and in Negotiation—Warlike tendencies of Absolute Governments—Want of Stability in them—Polish of Manners and the Fine Arts may flourish under them—This position subject to limitation—Estimate of the Refinements under Absolute Government—Dangers of admitting any of the Practice or Spirit of Despotism into Free States—Welfare of the People the only consideration in resisting a bad Government.

THE effects of a despotic government upon the character and the happiness of a people may easily be traced from attending to the two evident positions—that fear is not only the sole principle of obedience, but that it exists in an unbounded degree and pervades the whole community—and that the measures and the policy of the government must depend always upon the capacity and the inclinations of a single individual. Let us see what the inevitable consequences are of these fundamental positions.

1. Either from the sovereign or his ministers or his delegates in the provinces, the people are in a constant state of apprehension and alarm. Where they live remote from the seat of power there is a Satrap as he was called in the ancient Persian Empire, or a Bashaw or Beglerbeg as in Turkey and Persia, or a Raywoon as in Ava; and these subordinate tyrants, having no responsibility to any except the common master, partake of his absolute power and tyrannise over their several provinces. In the places removed from the seat of the provincial government some inferior officers tyrannise, every one in his sphere, because it is a necessary principle of absolute monarchies that the supreme power is carried downward by indefinitely multiplied delegations, each public functionary being clothed with the absolute authority of the general lord of the land. Of all these

tyrants the people live in perpetual dread, and meanness and above all falsehood in every form becomes habitual. When Homer said that "the day which makes a man a slave takes away half his worth," he assuredly did not make an over estimate of the debasing effects of slavery; and every one who has seen the consequences of severity in parents upon the characters of children, and marked its direct tendency to make them shuffle, and conceal, and prevaricate, and even lie, will admit that the fear generated by despotic power necessarily makes its slaves false and base. This character is accordingly remarked in all the nations of the East, more or less. The European Turks are far less tainted with the vice of falsehood than the rest; but the Greeks, who were more oppressed whilst under the Turkish sway, have this defect in a great degree. The Persians are utterly false. The difficulty of obtaining truth from witnesses in our East India and Ceylon Courts is experienced by all judges, who are obliged, in sifting testimony, to make allowances and draw conclusions wholly different from those which would result from the same narratives given before a European tribunal.

The poorer orders of the people might in those countries be expected to escape this influence of the government by being removed below the station in which it is most ordinarily exerted. They have no valuable property to conceal, and so need not fear confiscation, or lie to escape detection. They seldom cross the pursuits of any debauched functionary. They can give no umbrage by their situation to any jealous officer. Nevertheless, the existence of personal slavery in those states, and the disposition of men who suffer from the tyranny of persons above them to seek a miserable compensation by oppressing those beneath them, propagates the same fear and the same falsehood in a great degree among even the lowest of the people. Add to which the want of education which necessarily pervades the whole community, and without which the despotism could not exist—and we shall see no reason to expect much more from the lower than we find in the upper ranks.

The prevalence of fear is the cause of falsehood, because concealment and fraud is one means of escaping from the oppression always menaced. Another is bribery; and accordingly corruption prevails in all departments of the state, and the extortion

of each inferior officer is connived at by his superior because the latter shares in its fruits. Thus everything is to be obtained by paying for it, not by deserving it or having a right to it. The judge is solicited as a matter of course by the parties, and they do not approach him empty-handed. This practice of judicial solicitation has even prevailed in less despotic countries; and so difficult is it to eradicate a long-established usage, that all the revolutions which both the government and jurisprudence of France have undergone have left standing the remains of an absolute monarchy in less pure ages, and of a judicature in which the places were purchased by the judges. Bribery is now unknown in France, but privately waiting on the judges is still regarded as a necessary formality; nor can it be reasonably viewed as a mere form. In the East, not only judges but all persons in authority must be approached with presents; even our countrymen who filled offices in India so easily reconciled themselves to such compliments, that acts of the legislature were required to suppress the practice under the severest penalties.

Nor are falsehood and corruption the only effect of fear—it generates also tyrannical, selfish, and cruel dispositions. Cowards are proverbially cruel; and whoever debases himself by crouching beneath a tyrant seeks to indemnify himself by exercising on some others dependent upon himself the oppression which he has learnt and smarted from under his superior. As a mean-spirited creature who has been buffeted abroad revenges himself at home upon his wife and children, so does he whom the tyrant or his bashaw oppresses domineer over his dependents; so does the West India slave show himself the most unrelenting of task-masters and the most cruel of owners to his beast of burden.

With cruelty is combined selfishness. The unremitting care of our own existence and providing for our escape from constantly besetting perils engenders an habitual disregard of all other persons, their feelings, and their rights. Men are always selfish in a fire, a battle, a shipwreck; and famine and pestilence harden every heart and wrap all men's feelings up in the absorbing sense of individual danger and anxiety for the means of escape. Habitual suffering is bad for the human character—it hardens the heart and sours the temper. Habitual exposure to peril is worse—it concentrates all ideas in one object, and that

object ourselves. To develop the kindlier propensities of our nature, and to rouse the manly feelings, a sense of security—a feeling of confidence in others and of dependence upon ourselves —a certain enjoyment of comfort and ease and tranquillity is necessary. Such a happy situation is the source of benevolence, and fosters noble and disinterested sentiments, while it engenders worthy principles and lays the foundation of great designs.

2. But despotic government is equally prejudicial to the prosperity of a country and the good management of its affairs. Power lodged in one man is almost sure to be abused. It has been said that if a perfect character could be found absolute dominion intrusted to his hands would be by far the best government for the country; but the necessity for government arises from human imperfection; the rule of one man is bad because he is of necessity an imperfect creature; and the consequence of his imperfection is that dominion will make him worse than he is by nature, and that he will neither have the will nor the power to govern well. His bad education and selfishly overbearing habits deprive him of the will; the same habits, coupled with the indulgence natural to all who feel no necessity for exertion, make him a careless manager; and want of knowledge and of wisdom, the result of his situation, must incapacitate him as a ruler, even if he had the wish to govern ably and well. The chances too of misgovernment from ignorance, inadvertency or error of any kind, are greater where we have only one man's will to rely upon. Where many concur and bring their understanding and their labour to bear upon each question of state, there is little probability of any great oversight being committed. What escapes one is seized upon by another; what occurs not to this man is suggested by that. "In a multitude of councillors there is safety," says the wise man; and surely none can doubt that, whether we consider the detection of mistakes or the foreseeing of obstacles or the discovery of expedients, our end is far more sure to be attained by many heads than by a single one. All this supposes for the moment that we are only comparing a single ruler with a council, and that we are attributing to the individual as much capacity as any one of a council would probably have, and giving him credit for a sincere desire to pursue the good of the state alone. But it is clear from what has been said that he will in all likelihood be of far less capacity than any of those

councillors, and that he will have any inclination rather than that of doing his duty and consulting the interests of others. If he were perfectly honest and conscientious he might, by the choice of wise councillors in sufficient numbers and of sufficient diversity of habits and understandings, supply the defect which we have pointed out as the one under which a single man's deliberations must always labour. But even then, to make a happy selection requires great capacity. So that in every view the authority of one fails to produce in state affairs the benefits which result from the deliberations of many. However, the grand objection is, that one man in supreme power will usually consult his own interests and wishes, and gratify his own capricious inclinations, instead of judging and acting for the public good.

When to this is added the evil inseparable from hereditary succession, as almost essential to absolute monarchy, rendering it a mere accident whether an able or an imbecile prince shall govern—whether the power of the state shall be in the hands of a good or a wicked man—we must perceive that of all governments, the worst for the conduct of public affairs, as far as council and deliberation goes, is Absolute Monarchy.

Nor is the stability of such a system likely to be greater than the wisdom of its proceedings. No one is interested in its preservation. Fear—habit—fanaticism—may obtain support for it during a season; but a formidable attack from without exposes it to the risk of sudden destruction, while a sudden revolt at home may equally occasion its immediate overthrow. The monarch has his body-guards, and on them his safety depends. "*The state!*" said Louis XIV., "*I am myself the state!*" (*L'état, c'est moi!*)—and this is far more applicable to the unmitigated despotisms of the East than to the comparatively mild monarchies of Europe. Accordingly, all being centered in the sovereign, his destruction exposes the monarchy to ruin. Institutions in which many have a great interest gain general support, and strike their roots deep, and spread them far in the country. The government of one man topples over, like a column overloaded at the summit; but a popular constitution has the solidity of a pyramid. The sudden changes which have happened in the dynasties of the Eastern kings, both by insurrections and invasions, illustrate this position. The

history of these states presents, as we have seen, a constant scene of change, by the intrigues of powerful princes or the violence of soldiers. That the people hardly ever interfere and change the form of the government is owing only to the ignorance in which they are kept. They are quite indifferent to the fate of any one dynasty or ruler; but they are also quite ignorant of any popular government, and have not indeed among them the materials from which such a constitution could be formed. Consequently, what in more enlightened nations would cause a revolution in the form of government only changes the person or the family of the Eastern tyrant.

3. The misgovernment of any country and debasement of any people seem to be sufficiently secured by the circumstances to which we have adverted. But a third must now be mentioned which completes the picture;—Despotism effectually checks all improvement. Wherever despotism is established, it results from the peculiar position of the sovereign that he is in constant apprehension of change, and he is therefore obliged to adopt every possible precaution against it. While this affords some little security to his people against acts of caprice and wantonness on his part, it affords a much more powerful protection to all established usages. With the existing order of things his safety is bound up, and thus the maxim in all absolute monarchies is to abide by the customs of the country. Religion is called in to aid civil policy, and innovation comes to be stamped with the double brand of impiety and treason. The most effectual stop therefore is put to every proceeding, by which the people can hope for improvement either in their knowledge or in their condition. How in fact could any such measures be permitted, when they must inevitably lead to the improvement also of the government, that is, the limitation of the prince's power—possibly its destruction? It is only in those despotic countries in which the religion has so strong a hold on the minds of men as to furnish of itself a sufficient chain to bind them with, that any scope can safely be given to popular improvement; and we may be assured that even there infinite pains will be taken to keep the instruction as low as possible both in amount and in quality, and to mix it with civil and religious dogmas the most debasing. The stationary condition of society in the countries of the East strikingly illustrates this position. In Europe for the three last centuries

the advance of society in all valuable acquirements and in all useful changes, has been proceeding with a speed greatly quickened during the last fifty years. The travellers who visited Germany or Italy a hundred and fifty years ago—to say nothing of countries like France and Spain, where more sudden alterations have taken place—would hardly now-a-days be supposed to treat of the same people or the same territory. Nor would a foreigner coming to England at the present day, who had been brought up here fifty years ago, know that he was in the same country where his youth had been passed. But not so in the states of Asia. There all is fixed and unchanged. Time moves on, but man and his works stand still. Centuries glide away in the same unvaried round of cabāls at court, dethronement of princes, new families or new branches succeeding, mutinies of troops, loss or gain of territory—without any perceptible variation in the habits, the knowledge, the appearance, the condition of any portion of the people. The customs of to-day are those which prevailed seven or eight hundred years ago; and the narratives of the earliest travellers might be copied by those who should now visit those regions, with only the change of names and dates. A singular exception to this remark only serves to confirm its general truth. Egypt, having thrown off the Turkish yoke, is now governed by an able and politic prince, who has introduced extensive changes and improvements into every branch of his administration. The adoption at Constantinople thirty years ago of some European customs, chiefly in the military establishment, had cost the Sultan his life, by causing a revolt; but the Egyptian ruler has been more wise or more fortunate, and he is organizing his whole army and navy according to the best European models. He has also instituted schools for educating youth, and he deserves great praise for abolishing the traffic in African slaves. The commerce of the country has been extended, and encouragement is afforded to agriculture and the other useful arts. Nevertheless the government is purely despotic; and such is the insecurity of property, that constant interference from the crown confiscates whatever possession of the subject it suits the royal pleasure to seize. Indeed the sovereign is himself the largest trader in the country; and the oppressions exercised on his subjects for the promotion of his own commercial interests are without any limits. While such is

the insecurity of property, such the abuse of all other rights, nothing short of a miracle could either carry far the improvements which have been attempted and in part begun, or could ever maintain on any permanent footing those already made.

Such in general is the nature of Absolute Monarchy, and such its effects upon the character and the happiness of nations over whom it is established, corrupting both those who exercise it and those over whom it is exerted. But we must now consider whether or not this form of government has any redeeming qualities; and having seen that all improvement in knowledge and in the laws and institutions of a country is generally obstructed, if not wholly opposed by it, we may now inquire if there are to be found exceptions to this rule, and if there is any other kind of progress which it assists a nation in making.

It is generally affirmed that Monarchy excels all other forms of government in unity of design and in promptitude of deliberation. This must to a certain degree be true; because as one man's judgment only is to be consulted, it follows that there will be much less chance of variety of purpose and inconsistency in any given plan than where many councillors join in the deliberation, which often brings on the necessity of a compromise and of adopting parts of several plans. So quick decision is most to be expected when one alone has to determine. But all this is a dubious, or rather a mixed benefit of absolute power; and a benefit purchased by immense sacrifices, by the admission of evils far greater than slowness of decision or inconsistency and even counteraction in different measures or plans. A single tyrant may be found to adopt as inconsistent and self-repugnant a set of principles as twenty could agree upon, and to be sometimes wavering and irresolute, if not habitually so. Nor is it unlikely that the very occasions on which such defects are shown may be the most important of all—the very times of crisis for the fate of the country. Here, as in every other particular, all is uncertain in such a scheme of government; and as all depends on an individual there can be no security that his prompt resolutions may not be confined to unimportant occasions. Let it however be admitted that vigour of judgment and swiftness of decision belong more naturally to the administration of one than of many; we must still admit that the price paid for this benefit is the constant risk of error by rashness and want of reflection. The abso-

lute monarch, or the mere tools whom he selects to advise him because of their similarity to each other and their entire submission to his will, are only likely to decide rapidly because they decide precipitately. Protracted discussion means usually such a sifting of the subject as is necessary for duly deciding on it; and the promptitude of despotism is somewhat like that of a judge who should despatch the causes before him so promptly as to hear none of them argued. That the absolute prince does this exactly can hardly be affirmed—he does a good deal worse—he is apt to hear but one side, either from his own prepossessions upon the subject, or because, as one of the class observed (James I.), hearing both sides is troublesome and makes it more hard to determine.

Another ground of praise however is more legitimate. Absolute government is much more favourable than any other form to promptitude of execution. The concentration of all power in the hands of the prince and his delegates who represent him in all his attributes makes it undeniable that more vigour and suddenness of execution must be secured for all the acts of the state. Thus a monarch so armed will quell an insurrection or repel an attack better than any of the ordinary functionaries in a Commonwealth. Accordingly, as Monarchical governments borrow the advantages of a Council from popular constitutions, so these borrow from Absolute Monarchy the use of functionaries armed with large powers to execute the law, to preserve the peace, and to command the military force of the state. Nay, in emergencies, the Roman Republic not unfrequently appointed a Dictator, whose will was absolute, and suspended all law as long as the dangers, whether of rebellion or of invasion, lasted. We have however already observed upon a great drawback which attends such benefits; and here, as before, the loss is of the same kind with the advantage. The resources of a country not only are stunted by despotism, but, such as they are, they never can be called forth and made available to the public service. No sudden supply of funds can, under an absolute government, be expected to meet any sudden necessity for expenditure, even if the state's existence depends on it. The Turkish sultan can do anything but tax; and if he did try taxation the produce would be trifling. So no voluntary levy of men could be looked for to repel invasion. Patriotism is extinct. They who are taken to fight by force

must go, but they will desert the moment they can—nay, oftentimes they pass over to the enemy on the eve of an engagement, or even during its continuance; and while they fight their zeal is inconsiderable, unless where some national animosity may animate the soldier, as of the Russian against the Turk, or of Turk against Greek. The enormous sums of money that have been levied in England during the last 150 years afford the most remarkable proof of the power which a popular government possesses to call forth all the resources of a state; but we shall afterwards see how little benefit is derived from the exercise of this power where the state is not governed by the people, but by usurping bodies of privileged classes, whose rule only increases the evils of despotism by arming it with the power that popular forms alone can give.

In negotiation more than in war it is contended that advantages may be fairly allowed to Absolute Monarchy. Whoever treats with the representatives of a popular government may expect that the government will not always ratify what the ambassador has agreed to, and even that the country will not allow all that its rulers have ratified. So no one who acts for a state having a popular government, either as ambassador or as ruler, however disposed he may be to incur the responsibility of deciding upon any given proposition from another state, can act with confidence, or beyond very narrow limits; for it is by the will of the people that he must ultimately be governed, and, unless so far as he is sure of that will, he has no power. The same may be said of the measures themselves which the interests of a country soundly regarded may require to be taken, whether of making peace or war, or, in war, of carrying on particular operations. An undivided authority in one person's hands is more likely to be exerted with promptitude, and all the difficulties are removed which diversity of opinion and popular prejudice or temporary delusion may create. The superiority of absolute over popular governments in these respects may be admitted; and yet here too when both sides of the question are viewed the result is decidedly in favour of the latter. Thus there is more detriment to the other powers with whom we are supposing the representative of a commonwealth to be treating than to the commonwealth in his necessarily limited powers or uncertain instructions. More difficulty is thrown in their way than in his or his country's by this circumstance. Kings may say, We cannot

trust this ambassador's undertakings, because his senate may disavow him; or, We dare not confide to him our secret proposals, because the negotiations will be divulged by his government. But the people whose affairs that senate discusses and that government administers may be all the better for not being committed and bound so quickly as they would be by an absolute sovereign making the bargain proposed. So there is but one case in which the great question of peace and war—of all others the most important to every community—is likely to be better treated by a prince than by the people. A sudden feeling of popular indignation at a supposed injury, as perhaps of sympathy with some suffering nation or injured individual, may hurry a commonwealth into hostilities, and then the war by being unsuccessful may become as suddenly unpopular, and peace may be as vehemently desired as the war had been; and yet a continuance of hostile operations may be necessary for the safety of the country. There may have been instances of this; we know that there were such in ancient times, when republics were always warlike, and that in modern states the public voice has frequently occasioned war. It drove Sir Robert Walpole from power after a twenty years' administration, generally successful, and which mainly kept the present royal family on the throne of England; and it made hostilities with Spain, and soon after with France, necessary. Nor can any one doubt that the baneful American war at first was popular, or affirm that the destructive war with the French Republic, the main source of our heavy burdens, was disliked by the people in its commencement, although it was the court and the privileged orders that both immediately caused and continued to maintain those two dreadful contests. But it would be much more difficult to produce examples of injury to a state from the too speedy termination of hostilities in deference to the public voice. The possibility of such a case may be figured, and we may easily admit that if the people are in every case to decide upon the course of military operations, the worst consequences must ensue. A commonwealth however may by judicious confidence reposed in a few of its rulers easily escape all the risk of divided and dilatory councils, as the Greek, the Roman and the American histories abundantly testify. And then let us only place on the opposite side of the account the risks which a country runs both in negotiation and in war,

and above all in deciding the great question of Peace or War, from the folly, the ignorance, the caprice and the proverbial ambition—those almost necessary characteristics—of absolute power.

To go no further than the tendency of such governments towards war at all times—if in every other respect they were faultless, this would be their condemnation. Wherever one man rules alone, and is, as Louis XIV. expressed it, himself the state, this inevitably follows, that all military glory is centered in him, as well as all power of gratifying the thirst for it. He is the great gainer by war; and even if the more sordid love for its spoils be extinguished, the desire of its trophies will be sure to govern his mind in the vast majority of cases. The people may take a pride in conquest; the Romans did so, and if they were the civilizers and lawgivers of a vast portion of Europe, they were at the same time, in many respects, the scourge of the earth. But war is emphatically the Game of Kings, and they will always love it, and if absolute will never cease to play at it, until the exhausted resources of their states, the fear of revolt or the danger of being conquered force them into quiet. They will be like the father of Frederick II., who passed half a reign in amassing treasures and forming a powerful army, in order that his son (whom thoughtless men have surnamed the Great for acts which should rather be considered as vast crimes) might spend the money and employ the troops in ravaging unoffending and peaceful provinces, to increase the number of the subjects under his dominion. They will league together as the same second Frederick did with the Russian and Austrian monarch, and fall upon some helpless neighbour and divide his territory and his people among themselves. Excepting in barbarous times, no such atrocious outrages could be committed by any state where the popular voice prevailed and the measures of the government were the subject of free and public deliberation. We may lay it down as a principle admitting of no doubt, that in proportion as any people is enlightened and becomes well informed of its duties and its interests, a spirit of peace will prevail, and the chances of their regarding war with any feelings but those of abhorrence will diminish. But no hope can be entertained of any education eradicating from the minds of absolute princes the love of war and the proneness to embark in its horrid pursuit. The maintenance of large armies is their natural desire—their

safety against any revolt at home really requires it—their instinctive regard for self-preservation prompts it—and how difficult is it for them to be constantly provided with that instrument of aggression, and not employ it in gratifying the almost equally instinctive love of conquest! Nor can we overlook one risk of war being made, and of the interests of a state being sacrificed to that of an individual, which is wholly confined to Absolute Monarchy; the risk of hostilities being undertaken from merely personal motives and of negotiations being directed with such views. An insult to a prince, as when Charles XII. took offence that he was not treated like a king when he was travelling in disguise—a match refused or broken off—a family quarrel—the wish to assist some relation or cousin;—these are the daily causes of war and springs of negotiation with absolute princes; and the people, who have not the least interest in them or in the contests they create, are punished, according to the saying of the Roman poet, for the folly and phrenzy of their princes.

In truth, even as to the foreign concerns of a nation, its intercourse with other states, its treaties and alliances, and the maintenance of peace or prosecution of war, Absolute Monarchy labours under the worst of all disadvantages—the want of stability. Nothing can make a state more difficult and even dangerous to deal with than uncertainty—insecurity—the impossibility of telling any one day what may be the situation of its sovereign and its affairs the next. When political inquirers and when statesmen have given the preference to Monarchy over a Commonwealth for managing a country's foreign concerns, they never could have meant to speak of Absolute Monarchy, or if they did they never could have duly reflected on its precarious nature; for the worst they have to urge against a Commonwealth in this point of view is the flexible or fickle disposition ascribed to the people, and the consequently uncertain nature of a popular government's proceedings. But in this very respect a Despotism is far worse, and leaves much more to individual caprice, and consequently to the operation of chance and uncertainty, than the most popular government that ever existed. The importance of this point requires some further illustration.

We have already shown how much less secure the power of the prince is in Absolute Monarchies than in constitutions framed more or less on popular principles, where the voice

of the many is listened to, their interests are the object of public care, and their affections are attached to the existing order of things. This more precarious tenure by which the monarch in these despotic systems holds his power is of itself a sufficient cause, why the stability of all the institutions must be far less in these than in other governments. For the whole state and every part of its arrangements being bound up in the sovereign, the same precarious existence which he himself has is all that they can reckon upon. In fact, no institutions spring up in such countries except those which the prince founds, and he may be truly said to be the breath of their nostrils. The consequence is, that except what are necessary to the conduct of the government none exist there; for the crown has no interest in their creation and hardly any means of establishing them—not to mention the jealousy which absolute rulers always feel of any body, even dependent on themselves, obtaining any influence. A church—an army—a body of guards—a police—a body of judges or lawyers—they may have; these are necessary for the transaction of their business and for supporting their power. Beyond these we have few examples of any institutions established under despotic princes. Nor could almost any of those we find in more regular governments exist in a despotism. Suppose, for instance, the Grand Seignior should desire to have a national bank,—who would send his money to be deposited under the control of the government, and ready to be sacrificed whensoever the sovereign should choose to take it? Even a private bank could not well be set up at Constantinople or Smyrna, for the like reason.

But it is not merely the institutions which are more exposed to risk and change under absolute governments: the conduct of the state, the administration of its affairs, its policy, and its laws, are far more uncertain, far less regulated by principle, and far less conformable to system. Great bodies of men discuss the whole of each proposition,—nothing escapes them,—no room is left for sudden mistake, from precipitancy, oversight, caprice: above all, there is but one object in view,—the general interest; and that controls all feelings and counteracts all individual peculiarities. Accordingly, no line of policy adopted for the public good can ever be reasonably departed from until it has been found erroneous, and tending in a wrong direc-

tion. Nor can any party project be taken up from the whim of the moment or the fashion of the hour. What misleads men upon this subject is the confounding of the proceedings of a mob with those of a popular body. The former may, and often will, come to wrong and hasty conclusions upon the excitement of the moment—the latter never can; for the country at large must be consulted, and its interests in the main will be preserved. If, indeed, the government is so constructed as to let the mob rule, or to let the affairs of the country be transacted without such checks and precautions as afford full time for deliberation and discussion, no doubt every mischief may ensue. But this is an argument not against popular constitutions, but against such popular constitutions as are clumsily framed,—not against Commonwealths, but against ill-constructed Commonwealths. According to this principle (which will afterwards be more fully illustrated), an Aristocratic government is much less likely to pursue one steady and consistent course of policy in all but what concerns its own powers and privileges than a Republic, and an Absolute Monarchy the least likely of all. In such a government personal feelings, caprices, errors, interests, must of necessity bear sway and regulate all the movements of the state, as well foreign as domestic. All is at the mercy of the individual's caprice, and all is of course chance and uncertainty.

The balance of the account, then, in regard to foreign affairs is just as much against Absolute Monarchy as it is when we survey its mode of working upon the domestic concerns of a nation. The people may, especially in unenlightened times, err by undervaluing peace, and may occasion hostilities which the will of a single person might have prevented. So may that single will sometimes be of use in quelling or preventing a revolt undertaken without just cause and leading to public calamity. But this is no reason for holding despotism to be more favourable to the domestic happiness of states, and for preferring the solitude, the desert, which it creates and dignifies with the name of peace, to the occasional turbulence of popular governments; and in like manner an example or two of peace broken by the public voice is a poor set-off against the constant outrages upon humanity and habitual inroads upon the happiness of the country subject to an Absolute Monarch, which so generally results from his almost uniform propensity to war.

We have seen how this form of government is necessarily fatal to the progress of improvement among the people. In one respect it is not so detrimental. What is called refinement of manners appears by no means incompatible with the existence of despotic power. The arts of poetry, painting, and sculpture may well flourish under its influence. Indeed the personal vanity and ambition of the prince and his court have a tendency to encourage these; and the utter want of any other field of exertion naturally drives men of genius to apply it in those elegant occupations. There are no avenues to the public service opened for talent, because the favour of the monarch and the protection of his personal favourites is the only passport to employment. Fawning and intrigue and bribery are therefore the means used to obtain promotion in every branch of the state. The exhibition of capacity might even stand in any person's way, by exciting jealousy and alarm in the court and in the prince. The excellence attained by artists causes no apprehension, and is favoured by those whom all other success would mortify or alarm. It thus has happened that the Fine Arts flourished both under the usurpation of Augustus and in the Absolute Governments of modern Italy. That they have made little or no progress in the more severe despotisms of the East is rather more owing to the uncultivated state of the people of which the court partakes, than to the tyrannical form of the government—although certainly that may have contributed, by preventing the safe acquisition of property, and thus excluding the patronage of the rich. It may also have operated by preventing men of genius from studying their art at their ease; and it must be remembered that the Mohammedan religion, in order to avoid the risk of idolatry, forbids the imitation of any forms in nature, and thus excludes the highest department of painting and sculpture.

Of one branch of the fine arts, the highest of all, not a trace of course can be found in Absolute Monarchies—we mean Oratory. There is neither assembly of the people for the statesman nor administration of justice for the lawyer. The pulpit may afford some exception; and it would, if the religion in despotic governments had not for obvious reasons assumed the form of ceremonial rather than substantial divinity; nor can there be any doubt that a popular preacher, who, instead of muttering over the incantations of his superstitions and performing its

mummery and dumb show, or chanting its choruses, should address the most orthodox Mohammedan discourse or Christian sermon, by appealing to the reason and feelings of his congregation, either in a mosque of Constantinople or a Roman chapel while the Papal authority was unbroken, would have been viewed with extreme jealousy by his superiors, and speedily required to abandon so novel a course of instruction. Some Greek patriarch or Roman cardinal might now and then indulge in such an appeal, but no ordinary priest would venture upon it. All reasoning, indeed all discussion on every subject, must needs be discouraged and even prevented where there are so many subjects upon which it would be fatal to the government to let the people reflect and converse; and as the sciences are all of one kindred—nay, as the provinces of all those of the second grand division described in our Preliminary Discourse (those founded on experience and fact) run into one another in the way explained in our Preliminary Discourse to the Physical Sciences, so that progress in one necessarily leads to treat of another—it would not be possible for philosophy to spread in any country without introducing men to a knowledge of their rights as well as their duties. Upon those dangerous topics however no absolute monarch can suffer any discussion at all. Hence the sciences must necessarily, with perhaps the exception of pure mathematics, be unknown and uncultivated in every country subject to the despotic control of an absolute monarch.

In stating that the fine arts may flourish under absolute princes, we must by no means be understood to admit that they are not the natural produce of free governments also. It may perhaps be maintained that under these they have at all times flourished the most steadily and abundantly.

The same observations which were made on the arts are applicable to a certain refinement of manners, which is common to all highly civilized states, but which perhaps arises in despotic countries at an earlier stage of society. This refinement is in itself of little merit or value, if indeed it is not rather to be accounted a defect. Its chief characteristic is luxurious indulgences of various kinds, and a politeness which consists so much in suppression of the natural feelings that it is nearly akin to falsehood. Never to say anything that may give pain, unless where our duty requires it, is a rule of sound morals as well as

of good manners. But never to say anything which those present may dislike—nay, from which they may dissent—is the rule of refined and courtly breeding. Absolute command of countenance and figure—calm, placid deportment—unbroken ease—sustained dignity—habitual smiles—indiscriminate respect—nay, the semblance of esteem or even love for everything that approaches, and the taking a ready interest in whatever concerns every one, but showing none at all in what regards ourselves merely—these are the constituents of highly refined and courtly manners; and these imply such an unnatural suppression of feelings, such an habitual restraint upon the emotions of every kind, such a false position of the mind at all times, as is most easily learnt under the sway and the dread of a despotic prince or his provincial representative. Accordingly, the manners of the Orientals are known to be polite in an extravagant degree, while there is a want of polish in the subjects of free states which has made the roughness of a republican almost proverbial.

In discussing the effect of Absolute Monarchy upon the character, the habits, and the prosperity of the state, we have occasionally been obliged to compare it with popular governments, but into the merits of these we have hardly entered at all. They will be treated of at large hereafter. It was only necessary that we should here advert to them cursorily, as without such a reference the effects of despotism could not be distinctly explained.

We have also in this inquiry assumed that the government was purely despotic, and that no institutions existed in the state which could mitigate its rigour, by dividing the power of the sovereign, or raising any counteracting influence to rival or thwart his authority. We may now observe, and it is in its practical consequences a proposition of great importance, simple and even self-evident as it may appear, that the nearer any monarchy approaches to the pure form, the more manifest will its effects be upon the character and the condition of the people—the nearer will the state of things come to that which we have been surveying. So, conversely in proportion as circumstances occur to restrain the prince's absolute power—whether by the mitigating force of custom, or of religion, or of individual cases of amiable character in the prince or his favourites, or of great indolence and indifference, and a devotion to childish but harm-

less pursuits—in the same proportion will the pernicious consequences of absolute power to the character and condition of the people be limited, or the decay of virtue and prosperity among them be retarded or suspended.

From this proposition it follows—*First*—That no error can be greater than theirs who, from the contemplation of a system of pure and complete despotism, turn to one much less absolute, and regard it with approbation, or cling to its abuses with affection, merely because it has advantages which the other does not possess, and is perhaps incomparably more free from its mischiefs. For one country is not well governed because another is much worse; nor has any ruler a right to require that his subjects should be contented with his misgovernment by showing them a neighbouring prince who oppresses and misrules far more, or to require them to be pleased with their lot because that of others is more wretched; while it is a maxim of universal application that the people, for whom all government is established, has a right to be governed not only well, but as well as possible, and owes no thanks to its servants the governors for stopping a hair's breadth short of this point.

Secondly.—It follows that even under a government where the general principles are of a better kind, every step made towards increasing the power of the king is to be regarded as dangerous in the highest degree, both because it will inevitably lead to other encroachments upon liberty, which may end in Absolute Monarchy, and because great evils result from overgrown kingly power even where it stops far short of despotism. In truth, the mischiefs of this hateful form of government exist in every degree, from the extreme point of Absolute Monarchy down to the confines of a Limited and Constitutional Monarchy; and if in a government where the king is confined within the bounds of law his power is ever suffered to encroach upon the other branches of the constitution, the risk is exceedingly great of his overthrowing the government and making himself absolute; but even if he fails to do so, the character and prosperity of the people is sure to be impaired by his making any sensible progress towards the accomplishment of this design.

It is remarkable how exactly the occasional deviations from its fundamental principles in a free constitution, and the temporary introduction of arbitrary power, liken it to the worst despotisms,

and produce the very abuses for which those bad systems are so renowned. To fancy that, because the suspension of any important right is but temporary, or because the uncontrolled authority conferred is to be exercised in a free state, the same abuses will not follow which are familiar to the inhabitants of Eastern nations, argues a great ignorance of human nature and a disregard of the facts which history presents to us. To take an example to which we have already alluded (p. 109). When the extensive powers of the Alien Bill and Habeas Corpus Suspension Acts were intrusted to the government, its opponents gave those measures harsh appellations; and when they spoke of "Oriental tyranny" and "the necessary abuses of all despotic power," they were supposed to speak the exaggerated language of party or of the most chimerical alarms. Yet many months did not elapse before this happened:—Particular information, deemed most authentic and unquestionable, was received, that a respectable Flemish merchant then in England was engaged in correspondence with France and in a plot against this country. He was seized and flung into prison. He remained there for a great length of time, when it was discovered by some accident that the informant was a person who owed a large sum of money to the unhappy and guiltless prisoner; that this person had fabricated the whole story of the French correspondence and the plot; and that the innocent creditor's utter ruin and the escape of the fraudulent debtor had been accomplished under the powers of two English acts of parliament. This is precisely one of the bad cases which we put in a former treatise as happening under Eastern despotisms; and such things as this are the inevitable consequences of arbitrary power exercised without the publicity and control which the forms of free constitutions provide for guarding even well-intentioned rulers against honest error. The unfortunate stranger could not have been much worse treated or with more injustice, had he offended some favourite or lent money to some courtier in Turkey.

Thirdly.—There is so little foundation for the arguments of those who dwell upon the harmlessness of vesting large powers for temporary purposes in the government of free states, that on the contrary such powers are more dangerous and more liable to be abused than the habitual authority of the sovereign in despotic governments. This arises partly from the tendency of extraordi-

nary privileges to be exercised in their full extent and with a violence proportioned to their novelty, and partly from the greater confidence and fearlessness of men who derive such powers from the public, and feel that they have an unquestionable title to them. But there is no argument more powerful against ever granting extraordinary powers than the tendency of such grants to be repeated, and the tendency of the powers bestowed to become part of the constitution. The people become accustomed to them; the rulers become fond of them and believe that the affairs of the state cannot be administered without them. Besides, in free states authority of this kind is exercised sternly and harshly, without any of those mitigations which, in states where it exists continually, custom, and the fear of revolt, and the personal indolence or mildness of the magistrate, may introduce. There seems no doubt that, for the interests of liberty and the safety of the state, the plan adopted at Rome of a Dictator is preferable—an officer chosen during the existence of some great crisis, and invested with absolute power, and unaccountable for the exercise of it even after he had laid it down. Such an expedient meets the difficulties of the case fully, and it is of necessity confined to the emergency.

Lastly.—We may remark that, where a monarchy exists either absolute or so far approaching to absolute as to justify all attempts at changing its structure, the only reason for not at once attempting this improvement is the fear of injuring the condition of the people in an effort to better it. The failure of such an enterprise always confirms and indeed extends the monarchical power; and a gradual change is also more beneficial, independent of its being more safe. But it is the interest of the people which alone prescribes caution and dilatory proceedings. For the tyrant or his connexions, or the encroaching king or his court or family, no consideration at all is to be claimed. Their comfort, or safety, or preservation, can never enter into the calculation. The people alone must be regarded—and the people's interest is the only object that we have any right whatever to consider in deciding the question, whether or not the present state of things shall be submitted to or attacked?

CHAPTER VI.

GOVERNMENT OF CHINA.—JAPAN.

Chinese government is an absolute monarchy, but modified by ancient institutions —Anomalous condition of China—Sketch of its early history—Final conquest by the present dynasty of Manchow Tartars—Parental authority foundation of political institutions—Mutual responsibility—Reverence for learning—Confucius —Aristocracy of learning—Slight estimation of soldiers—the arts and sciences not progressive—Maxims and habits of the nation a check upon oppression—Religion—Emperor sole priest—Public functionaries—Degradation of people renders public opinion powerless against the Emperor—Instances of weakness of government—Incapacity to maintain large army—Circumstances tending to improvement of people if there were a change of government—Education in China insufficient and ill directed—Difficulty of obtaining accurate knowledge of China —Authorities—JAPAN anciently governed by a high priest; in 1583 the secular and religious functions divided—Petty chiefs exercise sovereign power in their own districts—Religious toleration—Exclusion of foreigners—Sanguinary code of laws.

WE have hitherto contemplated the monarchical form of government in its most pure and absolute state, in countries where there are no institutions to limit the Prince in the exercise of supreme power, and where no circumstances of a fixed kind or regular operation exist to restrain or to temper the use of an authority possessed by the master of the state, beyond the apprehension of resistance, which, of course, must always operate more or less, as long as those subject to the ruler are human beings. We have seen, indeed, that in Turkey some influence is possessed by the religion of the state, and the religious habits of the people; but this cannot constitute a specific difference between that and the other Oriental despotisms, although it may considerably increase the risks of rebellion in case those religious feelings are outraged. But we are now to survey a country in which the ancient institutions, as well as the fixed habits of the people, may be said to constitute a regular control upon the supreme power, and to modify its exercise, although that power is as exclusively vested in the monarch as in any other government of the East.

The Chinese Empire certainly presents to the eye both of the common observer and of the political reasoner, the most singular spectacle in the whole social history of our species. A territory of enormous extent, stretching fourteen hundred miles from east to west, and as many from north to south, peopled by above three hundred millions of persons, all living under one sovereign—preserving their customs for a period far beyond the beginning of authentic history elsewhere—civilised when Europe was sunk in barbarism—possessed many centuries before ourselves of the arts which we deem the principal triumphs of civilization, and even yet not equalled by the industry and enterprise of the West in the prodigious extent of their public works—with a huge wall of 1500 miles in length, built two thousand years ago, and a canal of 700, four centuries before any canal had ever been seen in Europe—the sight of such a country and such a nation is mightily calculated to fix the attention of the most careless observer, and to warm the fancy of the most indifferent. But there are yet more strange things unfolded in the same quarter to the eye of the political philosopher. All this vast empire under a single head, its countless myriads of people yielding an obedience so regular and so mechanical that the government is exercised as if the control were over animals, or masses of inert matter; the military force at the ruler's disposal so insignificant, that the mere physical pressure of the crowd must instantly destroy it were the least resistance attempted; the people all this while not only not plunged in rude ignorance, but actually more generally possessed of knowledge to a certain extent, and more highly prizing it than any other nation in the world; the institutions of the country established for much above five-and-twenty centuries, and never changing or varying during that vast period of time; the inhabitants, with all their refinement, and their early progress in knowledge and in the arts, never passing a certain low point, so that they exhibit the only instance in the history of our species of improvement being permanently arrested in its progress; the resources of this civilised state incalculable, yet not able to prevent two complete conquests by a horde of barbarians, or to chastise the piracies of a neighbouring island, or to subdue a petty tribe existing, troublesome and independent, in the centre of a monarchy which seems as if it could crush them by a single movement of its body; the police of the state all powerful in certain directions, and

in others so weak as habitually to give way for fear of being defeated; the policy of the state an unexampled mixture of wisdom and folly—profound views and superficial errors—patronage of art and of science, combined with prohibition of foreign improvements—encouragement of domestic industry, with exclusion of external commerce—promotion of inland manufacture and trade, without employing the precious metals as a medium of exchange—suffering perpetually from the population encroaching upon the means of subsistence, and yet systematically stimulating the increase of its numbers, removing every check which might mitigate the evil, and closing every outlet for the redundancy; finally, so unwieldy, anomalous, factitious a system of polity, enduring for so many ages, and for the last two centuries in a state of the most profound and unbroken peace, without a foreign quarrel or a domestic convulsion, while all the rest of mankind have been laying waste the earth with their conflicts, and changing the face of society by sudden revolutions—such are the marvels which the Chinese history presents to the contemplation of the inquiring mind; and as truth oftentimes is more strange than fiction itself, the various contradictions with which these things are found to abound, when closely and calmly examined, are much more wonderful than the exaggerated accounts of Chinese refinement and perfection, which for so long a period appear to have been believed unsifted by the remote nations of Europe. We are now to survey a little more closely the institutions of this extraordinary state.

After rejecting all the fabulous traditions, there is good reason for allowing the annals of the Empire to reach as far back as eleven centuries before our æra. The writings of Confucius, contemporary with Herodotus, and who flourished between five and six hundred years before Christ, record events five hundred years earlier; and there are eclipses of the sun which were observed many centuries before that, and which tally so exactly with astronomical calculation as to show at how remote a period their credible traditions begin. In the age of Confucius, their great philosopher and lawgiver, to whom the Chinese State pay divine honours, the Empire was held by a number of independent tribes, which had each its own laws and sovereigns, though the whole appear to have had one, or at least a very small number of chiefs; and it is certain that two thousand years ago half of the present extent of China was united under one Emperor, Tsin,

who built the great wall as a defence against the Tartar tribes. But afterwards the Empire was split into three, and then into two, kingdoms. The Chinese could ill resist their Tartar neighbours, whom they generally appeased by concessions of every kind; and during a period of only two centuries, beginning with the fifth of our æra, no less than six dynasties successively filled the thrones of the two states, which were united into one empire in the year 585. The dynasty of Tang, which in 622 obtained the throne, held it four centuries, and during this whole period the government was in the hands of women and eunuchs. Half a century of yet worse anarchy succeeded, during which five princes followed each other. In all this time the royal authority seems to have been extremely fluctuating, and generally very weak; the land was parcelled out among the grandees in a manner resembling the feudal scheme of the western nations, and the turbulence of the powerful chiefs appears to have produced its natural effect in undermining the foundations of the government at home, and in opening the way for foreign invaders. Accordingly many successful incursions were made by the Tartars, to resist whom the military chiefs took advantage of the next heir's infancy, and raised to the throne a Chinese officer, from whom sprung the dynasty of Soong. It reigned from the middle of the tenth till the latter part of the thirteenth century, but with a constant and disgraceful submission to the hordes of the eastern frontier, the Manchow Tartars. At length, calling in the aid of the Mogul, or western Tartars, they succeeded in defending themselves against the Manchows, but were subdued by their new allies in nearly the same way as the Britons were when, eight centuries before, they called in the Saxons to assist them against the Picts and the Scots, whom, like the Chinese, they had in vain endeavoured to restrain within the limits of their own country, by building, with the help of their Roman masters, a wall along the frontier.* Koblai Khan was the Mogul leader, and the founder of the first Tartar dynasty in China; and to him is due the praise of forming the great canal. His policy led him wisely to adopt the Chinese usages, in all except religious matters; for

* It is singular enough that the Saxons traced their origin to the tribe of Tartars which overran the northern parts of Europe under Odin, or Wodin, first their leader, afterwards their deity. Some inquirers suppose him to be the same with Fo, or Budha.

he and his tribe were firm Buddhists, and during their rule that religion was the creed of the country. It would seem, however, that his descendants became enervated as soon as they were settled in China, and in less than a hundred years the Chinese expelled them and founded the Ming dynasty, which lasted until the early part of the seventeenth century, when a rebellion broke out and enabled an usurper to overrun the country. The Emperor, to avoid falling into his hands, destroyed himself and his only child; and one of his generals then called in the Manchow Tartars, by whose assistance the rebellion was suppressed; but, like the Moguls four hundred years before, they remained in the country, overcame all opposition, and founded the last, or Tartar dynasty, which still fills the throne. How completely the Chinese were subdued may be gathered from this, that the conquerors compelled them to change their dress and shave their heads; but in other respects the Tartars conformed to the established customs of the country. Their reign has been attended with no disturbances of the public peace; and during a period of about two hundred years not more than six sovereigns have succeeded to the throne, two of whom have reigned sixty years each. The unsettled state of the dynasty, and the constant state of turbulence in which the ruling powers were kept during a long succession of ages, in fact until the accession of the present race of princes, affords a remarkable contrast to the permanence of the national system; for in this as in the other despotisms of the East, the people took no part in the revolutions of the state.

The universally pervading and governing principle of the Chinese Empire is the Parental Authority. The father of a family has all but absolute power over its whole members. Even if he puts a child to death he is only punishable as for a minor offence; but any outrage, even of a slight nature, upon his person, is punishable with death in the child. Such offences are, however, almost wholly unknown in a country where the utmost pains are taken to inculcate reverence for parents, from the earliest infancy of the child, as the most obligatory of all duties, and to make it a part of each person's nature. Some years ago a man joined with his wife in beating his mother: both were executed; the wife's mother was whipped, though wholly innocent; the house in which they lived was razed to the ground; the district was solemnly cursed; all the students belonging to it were degraded; and the

magistrates were removed from their offices and banished from the place. The object of the law is to impress the mind with a feeling of the awful nature of this obligation. It extends in some degree even to collateral relationship; for an elder brother is entitled to great deference and respect from the younger members of the family. On the other hand the parent is punished or rewarded according to the deserts of the child. Indeed the principle, if it can be so called, of making men responsible for one another, runs through the whole Chinese law. Districts are punished for the offences of individual inhabitants; governors of provinces are removed and disgraced if any tumult happens within their jurisdiction; and persons in authority over towns or villages are punished if any thing goes wrong in those districts. A similar principle was recognised in the ancient Saxon jurisprudence of England; where the country being divided into districts, called tithings, inhabited by ten families, each was held so far answerable for every individual inhabitant, that the tithing, if an offence were committed, was bound to produce the offender, or to pay the fines for which, by that law, all punishments were commuted.

The reverence for parents is not more a part of the Chinese system than the reverence for magistrates, who are all deemed to possess parental authority. The Emperor is the father of the country, and all other governors are his representatives, and clothed with his parental attributes. The viceroy exercises this authority in the provinces; the mandarin in the town or district: to all of these the obedience is as rigorously exacted as to the father in his own family. But the sacredness of the Emperor's prerogative is fenced by more substantial safeguards. The offence of treason is excluded from every one of the mitigations known in the criminal code; and the whole family of the offender, however guiltless, are punished capitally, the only difference between his fate and their's being that they are put to an instantaneous and he to a lingering death. That the power of the Emperor is altogether absolute needs not be mentioned; there is by law no control whatever upon his prerogative. But this is not all. He is the high priest, and there being no clergy in the Empire of China Proper, excepting the sectarian priests, he and his representatives alone perform the religious rites in the temples. Moreover, divine honours are paid him, and his appellation is "The son of Heaven." Adoration is practised to him in

the temples upon stated occasions by prostrations and by hymns, he being all the while concealed, as if he were a deity. No one is suffered to pass the gate of his palace, or to tread in the path by which he enters it; and when his orders reach any officer, the latter burns incense upon opening the despatch, and when reading it turns devoutly towards Pekin, the Imperial residence. Again, the Emperor is distinguished by no splendour of ornaments, his dress being plain, while the persons of his grandees are much adorned, as if such earthly trinkets were beneath the dignity of his celestial nature. He has beside all this the absolute power of naming his successor, and is not confined to his own family in the selection; nor is such choice only found in the theory of the constitution; the throne often goes to younger branches of the family without ever causing a dispute as to the succession.

From all this it would at first sight appear that nothing can be more despotic than this government, and that in practice, as well as by law, the power of the sovereign must be uncontrolled, and the empire be ruled solely by his arbitrary and individual will. But there has grown up with the monarchy a set of maxims respecting the exercise of power, an established system of education, and a peculiar course of promotion to the places in the public service, which altogether set limits to the prerogative, causing it to be exercised in one defined and regular mode.

From the earliest times of the monarchy there has been established in China a general system of instruction for the people; and this is spoken of in works and ordinances before the Christian æra, as being even then "the ancient system of the empire." There is not a village but has its schools, and in the evening as well as by day, so that those who are occupied with daily labour may take the benefits of education at night. Thus the taste and the habits of the people have at all periods of their history led them towards learning, that is to say, towards a certain degree of information, and towards mixing with their ordinary occupations some pursuits of a higher kind. That those who excel in such pursuits should be held in general esteem, is an inevitable consequence of this propensity; and that learning should have become itself an object of respect, is not perhaps so much the consequence of this as another form of the same proposition. But it also happened that at a very early period of their history a sect arose

of speculative men, whose cares were chiefly directed to explaining the true rules of human conduct, the usefulness of wisdom, the excellence of virtue; and as those times were like all the beginnings of society, filled with turbulence and excess of every kind, a principal share of the attention of those persons was given to the inculcating of maxims which tended to repress insubordination, and to preserve order and peace. The chief of these philosophers was Confucius, as we call him, from a Latin version of his name, but Koong-foo-tse, as he was really called in the language of his own country. It always happens that in such cases every thing is ascribed in after ages to a single eminent individual, because indeed the very names of the others generally speaking perish; and it also almost always happens that the experience of several generations, the labours of a course of years, are consolidated into one life, and given as if the creative genius of a single person had at once effected the whole change in policy or in legislation. It is thus that in our history almost all the institutions of the Saxon times are ascribed to Alfred, and that he is celebrated as the author of a perfect code of laws, although, when examined, his laws contain the former Saxon jurisprudence, with a great part of Deuteronomy and Leviticus copied from the Old Testament, and at irreconcilable variance with the rest of the compilation. There can be no doubt that Confucius was one of the most distinguished of a sect which flourished about the same period, between five and six hundred years before the birth of our Saviour, and the books which he left, and which are allowed to have been partly his own composition and partly the work of his disciples, in all probability contain the maxims stored up by a succession of reflecting and virtuous men, enforced by the authority which Confucius derived from his high rank (for he was the son of a chief minister), and from the zealous devotion of his whole life to the virtuous work of reforming his countrymen and teaching them wisdom as well as virtue. The homely form and practical nature of his lessons was well fitted to recommend them generally, and engrave them deeply in the memory. Their constant tendency to promote peaceful and orderly demeanour, and implicit submission to the laws, equally recommend them to the Government; and the plainness and even energy with which they prescribe the sovereign's duties, as well as his people's, could never

give offence at a period when it was certain that if a prince chose to act oppressively and selfishly towards his subjects, he would do so by means of his superior physical force rather than by pretending that he was acting as he ought. It has thus come to pass that for a long succession of ages there has been a veneration paid to the writings and to the memory of Confucius, which is without any second example in the history of our race. His descendants enjoy a certain rank in the state, and have privileges as such. Honours are paid to him in the temples as a part of the worship of the country. His writings are resorted to as of binding authority in deciding controversies in the courts: they are of course the subject of numerous commentaries; and the acquisition of the knowledge which they convey is the fundamental part of Chinese education; of the education especially which forms the qualification for the honours bestowed upon scholars.

The most extraordinary consequence has resulted from this universal estimation in which learning is held, and this careful teaching of the works so long sanctioned by both the public approbation and the authority of the state. A kind of literary aristocracy, or aristocracy of merit, and of civil merit merely, has grown up, and the whole offices of the empire are held by persons upon this sole title. In every considerable town there is a yearly examination for the first degree, answering to our degree of Bachelor. All persons indiscriminately may become candidates for this honour, and all who have obtained it may become candidates at the triennial examination held in each province for distributing the next degree, answering to our Master of Arts. Every three years the Masters of Arts may repair to Pekin, and if they cannot afford it their expenses are defrayed by the state. Here they may, on a third examination, obtain the Doctor's degree; but only a limited number of these honours is given at any one graduation. A fourth examination, that of the Doctors, leads to the choice of those who are to form the Han-lin, or National or Imperial College; and from its members the ministers of the Crown are almost always taken. One of the six councils which conduct the government under the Emperor is charged with all matters relating to education.

Not only are public functionaries appointed with a reference to their merits, of which their education is the test, but in fact there is hardly any other distinction of ranks recognised. The

chief descendant or representative of Confucius indeed is received with peculiar distinction at court, and singularly honoured. There is some pre-eminence conferred by a family having for five successive generations given birth to individuals distinguished by their merits; but these are no real exception. The descendants of the Manchow, or reigning family, are by the strict law of the empire entitled to some rank, have the right to wear yellow or red clothes, and even to receive a small allowance; but there are very many of them living in abject poverty; and if they have no personal merits of their own they are treated with utter neglect—insomuch that travellers have repeatedly seen them beaten in their yellow dress among the crowd, like the very dregs of the mob. Hereditary rank or title is the object of reprobation to the law; insomuch, indeed, that it is a capital offence to apply for it—and capital not only in him who makes the application, but in him also on whose behalf it is made—a precaution probably introduced to prevent the risk of any order growing up which might prove dangerous to the absolute power of the Crown. Thus all rank is official; but the general ground of respect, independent of place, is learning, which is held in universal honour.

The early proficiency of the Chinese in the two arts most subservient to the diffusion of learning, paper-making and printing, has mightily assisted in promoting the spread of education. At the end of the first century they could make excellent paper, and printing was known to them in the tenth—five hundred years before its invention in Europe. Hence they have during the last nine centuries had the great advantage of easy access to books; and the government have constantly encouraged by all means their study of the laws. For half-a-crown any one may purchase a good edition of their code. There are likewise meetings held at stated times, which they are encouraged to attend, for the sole purpose of reading the laws, commenting on them, explaining them, and inculcating their observance.

It is further to be observed, that all official rank is civil and not military. In the division of the classes of whom the people consists, men of learning are put at the head; cultivators of the land follow; then manufacturers; then traders; no place being allotted to soldiers. Civil officers have uniform precedence over military. The military mandarin of the highest rank may walk on foot; but one of a very inferior station in the civil service would be degraded

were he to be seen walking; he must be borne on a chair by four men; a mode of conveyance not even allowed to an officer in the army, who must ride if he does not choose to walk.

Thus there is deeply rooted in the minds of the people a respect for civil merit, by which is really meant learning; that is, such learning as they have been taught to consider important and sufficient. Their ambition, stimulated besides by the direct advantages to which learning leads, all points towards this quarter. Their desire is to make their children excel themselves by being better educated. Their hope even is to obtain direct rewards from the progress their children may make. Their recreation after labour is the reading, or hearing read, some portion of those books which they are accustomed to regard as sacred, though the works of uninspired men; works in which Confucius and his disciple Mencius have laid down the law of the land, and inculcated the rules of moral conduct. With their respect for learning their attachment to quiet, peaceful, orderly life keeps pace. They have no appetite for bustle or contention; a great dislike of violence; a great aversion to danger: hence they hate war, and they hate revolution, as much as they love learning and quiet industry. Their proverbial sayings, and no people are so fond of proverbs, bear evidence of these the prevailing dispositions of their minds. "Train the mulberry-tree while yet it is tender"—"Each time you open a book you learn something"—"All men are alike, were it not for education"—"If families have no sons devoted to learning, whence are the rulers of the country to come?"—"Better be a dog in peace, than a man in strife."

The universal respect in which learning is held, and the privileges allowed to it, have not however made the Chinese carry far their cultivation of it. They afford, on the contrary, a singular instance of a nation early making some progress, and then stopping short for ages; of a people, all of whom possess the instruments of education, the means of acquiring knowledge—a people most of whom have actually acquired some knowledge—and yet none of whom have ever gone beyond the most elementary studies. This can only be ascribed to the absolute form of their government, and the manifest intention which the sovereigns have always had to limit the literary acquisitions of their subjects. The advantages of keeping quiet and indolent a people so numerous as to be able to crush almost any ruler, and the means of tranquillity

which elementary lessons like those of Confucius and his school bestowed, if they were thoroughly learnt, and became, as it were, mixed up with the nature of the people, could not escape the Chinese monarchs. They had a people to deal with whom they found it easy to occupy with such pursuits, and with the innumerable customs and ceremonies which the sacred writings inculcate together with far better things. The occupation was more than harmless—it was most useful in extinguishing fierce and turbulent spirits; and the lessons taught were those of absolute submission to the magistrates, though seasoned with so much other doctrine as prevented them from wearing the appearance of a mere design to secure subordination. Beyond the learning of those books, therefore, the government had no desire that Chinese education should be carried. Accordingly, true orthodoxy is closely confined to the books of Confucius and Mencius, and one or two commentators on them; and the government discountenances by every means the acquisition of any other learning. This is the main cause of the stationary knowledge of the Chinese; and one of the most powerful means used by the government to keep it thus stationary is the preventing of almost all intercourse with foreign nations.

The amount of the learning contained in those writings is very moderate. Many of the maxims are admirable; some indeed closely resembling those of our own religion. Thus Confucius distinctly enjoins the duty of doing unto others as we would be done to by them; nor can anything be more urgent than his injunction to watch the secret thoughts of the heart as the fountains of evil. It is also an admirable precept of his to judge ourselves with the severity we apply to others; and to judge others as mercifully as we do ourselves. But there are wicked doctrines mixed with this pure wisdom, as when men are commanded not to live under the same sky with a father's assassin; and, besides, the merit of all moral maxims is much more in the acting upon them than the laying them down. Wisdom is, properly speaking, the doing what wise sayings recommend; and he has made but a small progress in philosophy—even in the philosophy of morals—who has only stored his memory with all the proverbs of Franklin and all the morals of Æsop. There are few men so ignorant as not to know the substance of these aphorisms, though they may never have seen them put in terse language, or illustrated by apt comparisons. The difficulty really lies in acting up to them. Therefore

the learning to which the Chinese almost entirely devote themselves is of a very trifling nature at best. Some of it indeed is positively useless. The Li-ki, or book of rites and customs, contains three thousand of these, all of which are to be learnt and to be scrupulously observed; and there is a council of state with the exclusive office of seeing that this observance is complete—a manifest contrivance of the government to occupy the people with frivolous and harmless studies.

It thus happens that the Chinese, after having, long before any other of the nations now deemed most refined, made a considerable progress in knowledge and still more in the arts, have stopped short as it were on the threshold, and never attempted the rank of a learned or even a very polished nation. Acquainted with paper-making for above seventeen centuries, with printing for more than nine, they have hardly produced a book which could fix the attention of a European reader in the present day; and yet learning is the passport to political honours, and even to power, among them; and books are so highly valued that it is part of their religious observances never to suffer the treading on, or irreverent treatment of, a scrap of printed or written paper how worthless soever. Possessed of the mariner's compass twelve hundred years before it was known in Europe, they have scarcely ever put it to the use which it really can best serve, but creep along their coasts, from headland to headland, like the most ignorant of the South Sea islanders, and rather employ it on shore, where other marks might better serve to guide them. With a kind of glass, or something as near good glass as possible, for ages, they never have yet succeeded in making that most useful and beautiful product of the arts in its transparent state and plastic fabric. Capable of copying the works of the pencil with a minuteness which seems preternatural, both as to colour and form, they are wholly without invention, and, left to themselves, can make nothing like an imitation of nature. Nor in the severer sciences have they made any progress beyond the very first elements, although they have known one or two of the fundamental truths in geometry for hundreds of years, by induction rather than demonstration, and could calculate eclipses of the heavenly bodies long before any other nation had emerged from barbarism. It is equally certain, however, that the amount of knowledge which they have so long attained, the repute in

which they have been taught to hold the quiet and sedulous pursuit of it, and the devotion of their attention to it within certain limits, joined to the being debarred from all foreign intercourse, has produced all the effect that could be desired by their rulers; it has so far reclaimed them from the turbulent state of uncivilised tribes as to make them easily ruled, by keeping them quiet, sedentary, inactive, even pusillanimous, without unfolding their faculties or increasing their knowledge in any degree likely to endanger the security of a system founded mainly upon the permanent position of all and each of its parts.

We shall presently see how difficult it would have been, by any other means at the government's disposal, to keep so prodigious a political body together. But it was an inevitable consequence of the government stopping improvement in some branches of learning, and preventing science from passing a certain point, for its own purposes, that a stop should also be put to advancement in other branches where the government would have anxiously desired more progress to be made. Agriculture, the prime favourite of the State, has been nearly as stationary as political or as mathematical science. The ploughs and other instruments used in tilling the ground are of the most clumsy and inefficient construction; all rotation of crops is unknown; and no use, or next to none, is made of cattle. As for their advancement in trade, we may judge of it by there being no coined circulation of either gold or silver, and we may judge of their advancement in wealth by money being at 12 to 15 per cent. interest in ordinary times.

If it would be erroneous, as we have just seen, to infer, from their literary aristocracy, that the Chinese have made great progress in learning, so would it be equally incorrect to conclude that this system affords much solid protection to the people, or restrains the abuses of power in any manner likely to prove generally beneficial. Some limits it certainly does fix to the exercise of authority; because it obliges the sovereign and his servants to administer the affairs of the state according to a certain rule. It also forms a part of the maxims with which all the people are made familiar, that the ruler has duties as well as the subject. "The emperor and the subject who break the law are alike to blame."—"Whoso subdues by force is a tyrant; whoso prevails by philanthropy is a king."—"Obedience to force leaves the heart unsubdued, and the submission is not sincere." Such

are the texts constantly taught from the sacred books. "The hearts of the people speak the commands of Heaven" is a maxim applied in the same writings to justify the rebellion by which one dynasty was dethroned. "An invader," says the same revered oracle, "will find allies in a country which he comes to relieve from oppression."—"The Sovereign who gains his people's hearts (says Mencius, next to his master, Confucius, their highest authority in law and in morals) strengthens his throne; he who loses their hearts will lose his throne also." Some of the emperors themselves are recorded as the authors of similar maxims. "The bow may crack, and the people may revolt," said one, upon a question of state under discussion. "Look," said another sovereign, while conversing on the canal, and arguing against some measure propounded; "Look at the still water on which this boat glides: the water is the people; the boat the sovereign. Beware of the waves which may swallow it up." It is impossible to deny that the tendency of such maxims, universally received and learnt by all the people, is to prevent any great and sudden excesses of arbitrary power; to disincline the government to any violent change in its policy. Indeed its own interest has long made the avoiding such shocks, and perpetuating the existing state of things without variation, the cardinal principle of its administration. It is equally certain that a considerable restraint is imposed upon the breach of the laws and customs long established, by the pains taken to make them fully and familiarly known to the whole people. This also indicates, on the part of the government a previous determination to abide by the established usages, and rest satisfied with the powers with which those arm its hands. But, beside the strength which it derives from the arrangements already described, we may further observe how much the constitution of things leaves at the disposal of the sovereign, and how little interest he has to depart from it, and how little security for good government is derived from all the regularity with which the system is administered, and the maxims of imperial duty so universally made known.

It is first of all to be observed that the emperor enjoys the whole advantages of the authority to be derived from religion without any of the restraints which a clergy might interpose. He *is*, indeed, an object of worship to the people. He is also the high

priest, and there are no other priests in the country than him and his representatives—that is, none recognised by the law;* for the religion of the State is that of Confucius, which has no established clergy, and the two sects of Tsao and of Buddha, of which the latter is the most numerous, are discountenanced by the law and the court, their priests subsisting wholly on private contributions. They are, indeed, treated with tolerance; and so important is the Buddha faith become, that on critical emergencies the sovereign avails himself of its aid by calling upon its followers to perform such religious ceremonies as may further the objects he has in view. The extreme ignorance of the Buddha priests,† who do not even pretend to understand the Pali language, the sacred tongue in which their books are written, and their being wholly supported by alms, probably renders all apprehensions from their influence chimerical. As for the religion of the State, that of Confucius, though it is certain that the doctrine of future rewards and punishments, or indeed of a future state, forms no part of it, yet those appear greatly to err who represent it as not recognising the existence of a Supreme Being. No doubt it treats the whole subject of the Divine attributes summarily, and as one on which human knowledge must needs be extremely limited; some of its doctors even consider that it may be wholly omitted; and Confucius himself places the human understanding on a level with the other two existences that compose the universe—heaven and earth. But not only do they adore deceased great men and idols, (which the better-informed part of them regard only as symbolical of the divine nature,) but Fongault, who had lived twenty-five years in China, distinctly assured Voltaire that, among the learned, very few indeed rejected the doctrine of a Deity; and if a future state of rewards and punishments is denied, perhaps more strength is derived to the government from the belief which pervades the whole system, of the constant interposition of Providence, of rewards and punishments in this life, meted out according to men's observance of the law.

* This applies to China itself only. In Chinese Tartary there is a priesthood.

† A striking resemblance has been traced by many authors between the Roman Catholic system and that of Buddha; but here the parallel signally fails. The Scriptures being withheld from the people, and the service in a language unknown to the worshipper, is less absurd than the ignorance of both priest and people. No one can charge the Roman Catholic priesthood with any want of learning.

Nor must it be forgotten that the sacred books, the four of Confucius, as they are called, though one at least was the work of Mencius, and the five commentaries, are in most places sufficiently obscure to bear whatever interpretation the government, which alone construes them, may find it expedient to give their texts.

The emperor and his representatives are the distributors of justice as well as the ministers of religion. In each province the viceroy or an officer specially delegated is the criminal judge; the treasurer is the judge in civil causes. The number of mandarins, persons in authority and representing the emperor, is prodigious; they are said to exceed fourteen thousand. The velocity with which the imperial orders are conveyed and executed is extreme. A general system of discipline is maintained, which, were it fairly and openly exercised, would be most beneficial in promoting the due performance of civil duties; but it is worked by fraud and favour. No person can hold office in the part of the country with which he is connected by birth or residence. No one can hold office under any relation of his own.* All functionaries are removed to other districts after two or three years' service in any given place. Each viceroy is bound to make a report once in three years on the official conduct of all under his government, and according to their behaviour those functionaries are promoted or degraded. A system of spies is everywhere established; the Board of Censors (to be presently described), forty or fifty in number, are principally employed in this department, but innumerable other informers are encouraged; in fact, every man in place is made the spy upon his colleagues. The responsibility of all in superior trusts is rigorously enforced, but without regard to justice, or even to common sense, so as to fill the party with alarm no doubt, and quicken his exertions through personal fear, but also to occasion fraud and concealment where anything is found amiss and may lead to evil, or where anything has actually gone wrong. The chief object of the government being to maintain quiet and order, anything like resistance to the law is severely punished, but not in the offender alone; the governor in whose district the mischief has occurred is himself punished, however little to blame. Im-

* The French have adopted the first of these principles in regard to the Prefect; the second resembles their rule as to relatives not sitting in municipal councils.

perial commissioners are also, from time to time, sent to try the viceroys for things of which they are accused.

The princes of the Tartar dynasties have always excluded the Chinese from the offices highest in authority. Thus the council of state (Nuyko) which, under the emperor administers the affairs of the country, is composed of four councillors, with a number of assessors, who have no vote. Of the councillors two are Tartars (Choong-tâng), two Chinese (Ko-lao), but the former have the precedence. A Tartar alone can hold the commission of chief general; and a Tartar alone can preside over the department of foreign affairs. The councillors and assessors, as we have seen, are generally chosen from the Han-lin, or national institute.

Not only are no pains taken to maintain in the people any sense of their own dignity, any feelings of self-respect, as might be expected among persons who are accustomed to regard learning as the first of human pursuits, but every way is fallen upon to degrade and humble them. Thus the officers of the army, even of high rank, are punished by pillory and flogging; and the criminal code, beside laying down the various punishments for various offences with a degree of minuteness as to the amount apportioned to each, and a care in the classification, unknown to all other systems of jurisprudence, provides that, even though no express law is violated, yet if anything is done contrary to what is called "the spirit or general meaning of the law," the offender, if such he can be with any propriety termed, shall be punished with from forty to eighty stripes. It requires no argument to show what a system of oppression and of terror such a preposterous scheme of penal law must create, and how utterly it must place the whole of the people at the mercy of those in authority.

After contemplating such a system, we may easily imagine how safely certain privileges may be granted to the people, and how well the enjoyment of them may be allowed to stand with the most absolute power of the Sovereign, and without any hazard to the tranquillity of the State. There is no censorship of the press; all things may be printed without previous leave and license, as in England. But who dares publish anything which may by possibility give offence to a government armed with such powers, exercised in such a manner, and vested in such hands?—We find their plays speaking not only freely but abusively of princes; and their novels, which form the great body of their literature, fre-

quently describing the duty of a good minister to reprove as well as to advise emperors. But these things in a country so well trained to obedience as China are safe generalities, and we may rest assured that no special application is ever made of their import to the prince or the minister of the day.—The Emperor's conduct is subject to the revision of the public annalist or historiographer charged with recording all his acts for the information of posterity. But as the Prince has access to see the work while it proceeds, although instances are related of men fearlessly doing their duty, and at once adding to their narrative the imperial threats denounced against them in case they refused to make certain sacrifices, we may rest assured that in the vast majority of cases the office of preserving wholesome yet unpalatable truths with reference to the monarch is nearly a sinecure.—There is a Board of Censors, who are empowered to remonstrate with the sovereign, and who alone can state such complaints without incurring capital punishment. But as these men are removable at the pleasure of the Crown, as they are habitually employed in the office of spies upon other functionaries, and as they are liable to be banished and otherwise punished, though not capitally, if they remonstrate disrespectfully, we may very well conjecture how inoffensive their reproofs are likely to be.—That the people, in a way known under no other absolute government, are used to express their opinions upon the conduct of viceroys and other local rulers, is certain, and the peaceable and submissive character of the Chinese renders this safe enough to the public peace. They hold meetings for the purpose of expressing their satisfaction with those whose conduct they approve, and bestow honours upon them by presents and processions when the term of their office expires. They even meet to complain, censure, and remonstrate when a governor gives displeasure. But there is no reason to believe that they ever disapprove where the thing objected to is the execution of some order unquestionably proceeding from the Emperor, and in enforcing which the viceroy has had no option. The superintendence of public opinion over public men in a country inhabited by such a submissive people as the Chinese must tend rather to give the sovereign an additional security for the obedience of his representatives than any alarm for the stability of his own authority, or any doubt about the execution of his own orders.

It must always be borne in mind that the tendency of the dis-

cipline, the moral training, under which the Chinese people have been for so many ages, is to subdue their spirit, and that, accordingly, they are a race of beings pre-eminently distinguished by their submissive and even pusillanimous habits of mind. As long as the government proceeds in the regular course to which they have been accustomed it has nothing to fear; and with that course endless oppression of individuals and universal abuse is abundantly compatible. The best travellers who have visited the country—and, through the accident of several embassies sent thither, some very intelligent persons have had this opportunity—all agree in representing the oppression of the powerful over the weak as a sight that meets the eye throughout all parts of the Empire. Mr. Barrow, particularly, has described the harassing and vexations by which the people are crushed in various parts of the country as lamentable. Avarice is a characteristic of such natures as the system has produced—prudent, cunning, spiritless, calculating. Accordingly, a disposition is everywhere exhibited by men in office to gripe and squeeze all submitted to their authority. Mandarins endeavour to partake in the gains of the very coolies, or porters employed by the Canton traders; and as the higher powers seek to extort from all in office a large share of their gains, the utmost pains are taken to conceal them. No man, whether in office or in a private station, dares expose himself to the risk of extortion, and therefore all endeavour as far as possible to hide their wealth; so that all live very much below their means.

Whether because it trusts to the character of the people and the natural stability of the system as long as nothing out of the ordinary course is attempted, or because it dreads a large military array, or because a small force is more consistent with a moderate revenue and there might be a difficulty in greatly increasing it, certain it is that no country is governed and defended with so few troops. The whole army is called 700,000 men, but of these only 80,000 can be reckoned available; the rest are militia, and so wretched as to be wholly useless even for the purposes of police. Now 80,000 soldiers is for China what 6000 would be for this country. The revenue is estimated at sixty millions sterling, or about one-eighth part of our public income in proportion to the number of the people.

We have seen that the government is in this very bad position; it has the power of maintaining itself, provided it remains at rest,

or treads only in the beaten path; it is exposed to imminent hazard if it moves; and improvement is as dangerous as any other change. Then, with no power to make beneficial alterations, it has quite force enough to grind and oppress the people, provided no outrage be done to the prejudices and habits that have become a second nature with them, and yet are of little use in either improving their condition or in protecting them from vexation. But the government has always shown indications of extreme weakness where it most concerned the public good that it should have possessed a reasonable strength. Many striking examples of this feebleness may be given. The Japanese for a long series of years committed depredations on the Chinese coasting trade, and occasionally on the shores of the Empire itself, yet no successful attempt to prevent or to punish them was ever made. More than once the invasion of Japan has been attempted, always with signal failure; in one expedition an army, which their own statements make amount to 100,000, was entirely lost, as they maintain, owing to a storm; but no renewed effort was hazarded, and, with the spirit of misrepresentation in which their extreme national vanity delights, they continually pretend to have some sovereign power over that empire, and yet are too happy to be at peace with it, and have often endeavoured to purchase the forbearance of its privateers.—An expedition of 50,000 men was in the last century fitted out against the Birman empire, the northern provinces of which have generally proved dangerous neighbours to China. Not one man of these returned; all but 2000 or 3000 perished in the field, and these were retained as prisoners.—The tribe called the Meao-tse, who inhabit a range of mountains in the heart of China, might long since have been subdued, nay extirpated, by a vigorous government having at its disposal the resources of a tenth part of such an empire as the Chinese. In the latter part of the last century they drew a Chinese army into their district and cut it in pieces. The Emperor sent his best Tartar forces against them, and the government accounts pretended that they were wholly destroyed. Nevertheless a few years ago they were found to be more powerful than ever, and coming into the plains defeated several Chinese corps, took some of the towns, and were headed by a chief who declared his intention to overthrow the reigning dynasty, and establish a Chinese in room of the Tartar government. Being attacked by the Viceroy of Canton, they re-

treated, but returned with an army of 30,000, and defeated the Chinese with great slaughter. At last they suffered some reverses, and the government immediately were glad to treat with them, guaranteeing the independence of the tribe, and disbanding their own army.* It would not be easy to imagine a more feeble system than such transactions indicate.—The internal police of the country seems also to show little vigour in the government. They have no means of preventing coining, and this is given as the reason for not striking silver money. As late as 1832 the government itself complained of the number of robbers that infested the country, and in order to diminish these bands gave all manner of encouragement to the cultivation of waste lands belonging to the Crown; the depredations of banditti prevent the farmers from living in the country, and drive them into the towns and villages. The same weakness was shown in the helplessness of their condition when a financial difficulty lately arose. In 1833 a deficit was declared of three millions; expedients were propounded and rejected; among others a duty on salt. No new tax, however, could they venture to lay on; and at last it was resolved to raise money by the sale of offices, although nothing could be devised more entirely at variance with the principles of their political system.

If we were to form an estimate of the degree of happiness enjoyed by the people under this system from the mere probabilities of the case, we should in all likelihood pitch it considerably lower than the truth. That great oppression prevails is certain, but those who are subject to it are chiefly the persons in some authority, or at least of some condition; and the character of the Chinese is so much composed of vanity and love of distinction that all employment is eagerly sought after, notwithstanding the risks which attend its enjoyment. The disposition of the inhabitants is not merely peaceable—it is contented in the greatest degree; nay, their gaiety is described by all who have had intercourse with them as a very striking characteristic of their mind. They are industrious also and sober in a remarkable degree; and indeed a frugal disposition seems necessary to make life at all comfortable in a country where the numbers of the people encroach so much on the means of subsistence that food wholly

* The government purposely represents these Meao-tse in the most degraded character to the people, always calling them "thieves, dog-men, wolf-men," &c.

rejected in other countries is eagerly sought after there—rats and other vermin, and the bodies of drowned animals, being seized upon with avidity by the common people. The strange infatuation of the government in these circumstances is hardly to be credited. The increase of the population seems a main object of the administration. Not only is emigration strictly forbidden, but if a person is condemned to die for the worst offence, other than treason, it is a sufficient reason for pardoning him that he happens to be an only son or an only nephew, through whom the family is to be continued. Perhaps the frequency of infanticide, and its being confined wholly to female children, arises from a struggle of the people's necessities with the preposterous policy of the government.

When we survey this singular empire, and find how low it stands among the nations who have cultivated the sciences and the arts, we shall probably not greatly err if we conclude that it is fully prepared to make a very rapid advance, and that but little external aid would be wanted to stimulate this successful exertion. Everything seems, as it were, ready for its beginning to run the race in which the western nations are engaged. Perfect order—a regular and undisturbed government—habits of cheerful industry—temperance, generally speaking, as regards sensual enjoyments—a deeply-rooted respect for literary attainments—study in some sort, though of a base kind, mixed up with the whole business of life—the system long established of promoting to civil offices according to desert, and particularly literary desert, a system capable of better direction, and which long habit has made practical, instead of wearing a fantastical air as it would elsewhere—a language which, however differently spoken, is yet identically the same in writing all over the country, nay, is read by four hundred millions of people, over regions stretching 2000 miles in latitude;—finally, the mechanical parts of learning, printing and paper, that is books, cheaper and of better quality than in any other part of the world:—these circumstances constitute a state of things so favourable to rapid improvement (excepting, perhaps, the rather inflexible and unmanageable nature of their language in the expression of ideas and things entirely new) that we can hardly doubt their effect as soon as the first step is taken by the establishment of a somewhat free intercourse with more intelligent nations. Truth is of a nature essentially fitted for

recommending it to the human mind as soon as it is distinctly perceived; and we may be assured that where the soil is so well prepared for its reception science will strike its root deep, spread its branches wide, and ere long bear its appointed fruits, in the augmented virtue and multiplied enjoyments of the people.

Political improvement may be confidently expected to result from the same circumstances. The alarm in which the Tartar dynasty lives while surrounded by such disproportioned numbers of a nation still partial to the recollections of their native race of princes is the cause of many of the worst oppressions under which the empire suffers, and above all of the jealousy felt by the government towards the increase of information, and towards the extension of intercourse with other countries. Any change which should put an end to that dynasty would be the greatest blessing that could be conferred on the empire; and, from the vast preponderance of the Chinese people, as well as from their singularly quiet habits, it is probable that no very general civil war could arise out of the disputed succession. If a Meao-tse chief at the head of a large body of those hardy mountaineers were to march upon one of the great cities and seize it, the probability is that the government would be alarmed into a negotiation which would end either in an immediate dismemberment of the empire, or in an entire overthrow of the Tartar power. This is the event to which all the popular traditions and prophecies point, and it is also the subject of perpetual apprehension with the imperial family and their retainers.

It is impossible for the political observer to contemplate the history and the condition of the Chinese without drawing from it two inferences of great moment, bearing upon the important subject of Popular Education.

In the *first* place, we have been surveying a remarkable instance of the inefficacy of mere elementary instruction to produce any considerable improvement in the knowledge and intellectual condition of a nation. The art of reading and writing, and even some acquaintance with books, is more universal among the Chinese than any other people, and yet they are what may justly be called an ignorant people. The tools are in every one's hands; but little work is done with them by any, even by the highest class of workmen. This universal possession of the means of instruction would infallibly ensure the acquisition of

it, were any portion of the community, however small, really well informed. But we cannot observe how little progress they have made without becoming sensible how invariably mere elementary education is useless unless it be carried further.

Secondly, the example of China proves how much the education of the people may be perverted to bad purposes when it is made an engine in the hands of the government to accomplish the ends of the ruler rather than the mental improvement of his subjects. By means of the interference with education which the authorities systematically have practised for a long succession of ages, the Chinese have been disciplined and trained to a servile obedience, arising from a prostration of their understanding, and from their whole attention being confined to frivolous studies. Hence not only has instruction failed to produce its natural good fruits in invigorating the understanding and inducing or confirming virtuous habits; but it has concurred with the policy of the court in rather constraining and enfeebling their mental powers and in lowering their temper. They are of soft dispositions, without any of the cruel or harsh propensities which, unless pains be taken to check them, are generally allied with a high spirit; but full of the suspicion, cunning, and falsehood which that spirit for the most part rejects.

Thus the example of China powerfully illustrates the necessity, both of not resting satisfied with the elements of popular education, and of watching jealously all political interference with the instruction of the people.

In closing the subject of the Chinese government it is fit that we should note the difficulty of obtaining certain and trustworthy information upon this, and indeed upon everything else connected with the state of that extraordinary empire. Partly in consequence of the exclusion of foreign intercourse, which necessarily restricts the means of ascertaining the truth, partly from the great extent and power of the monarchy, which not unnaturally gives rise to exaggerated ideas in those who treat of it, the authors who have discussed the subject are exceedingly divided in their views, and two very opposite courses have been taken. Some have seen nothing but grandeur and wisdom in all the parts of the imperial system, and a successful result of its administration in the power, wealth, and prosperity of the country. Even Voltaire, of all writers the least apt to be carried away by enthusiastic views, the

most prone to doubt historical and political wonders, the one who has, perhaps, more than any other contributed to dispel the fanciful stories of former authors, and to make men guide themselves by common sense in weighing the probabilities of the narratives submitted to their belief before they begin to speculate upon an assumption of their truth—even Voltaire seems to make an exception in favour of the marvels collected about the Chinese empire, and shows a fondness for setting up the relations brought to Europe in early times respecting it in an advantageous contrast to the institutions of really polished nations.* Others have no doubt been carried into the opposite extreme of crying down all that is Chinese, either because they came after those who had exaggerated the merits of the system, or because they took their accounts from those who had only seen the most unfavourable side of the Chinese people and their governors—the side presented at Canton, where alone they come in contact with foreigners. How difficult it is to obtain accounts which can be fully relied on may be seen from this, that authorities vary in their estimate of the population to the extent of no less than a hundred millions. Generally speaking, the official authority of the government departments themselves is little to be trusted. They are not, indeed, so much to be rejected as the traditions respecting the early history and antiquity of the remote Empire; for these greatly exceed even the ordinary exaggerations of the Oriental fictions upon that subject so interesting to national vanity. Yet still it forms a part of the Chinese court policy to circulate extravagant statements of its strength, and carefully to suppress all accounts tending to show any discomfiture. Another proof how distrustfully we ought to look at all their official returns is to be found in a comparison of their different enumerations of the people. According to these, some provinces have, in twenty or thirty years, become twelve and fifteen times less populous than before. It has been the object of the foregoing account of the Chinese institutions carefully to avoid any exaggerated statement; to shun all doubtful authorities; to take no writers for guides but such as spoke for the most part with the means of information afforded by personal knowledge of the country, and seemed free from any strong bias of prejudice in relating the result of their inquiries.—Beside the

* It can hardly be doubted that he was warped by the circumstance of China having little religion and no clergy.

older and more general works that treat of China, those most safe to be consulted are, Sir George Staunton's Account of Lord Macartney's Embassy, 2 vols. 4to., first published 1797; Mr. (now Sir John) Barrow's Travels, 4to., 1804; M. de Guignes's Voyage à Peking, 3 vols. 8vo., 1808; Dr. Morrison's View of China, 4to., 1817; above all, Mr. Davis's General Account of China, published by the Society of Useful Knowledge, 2 vols. 8vo., 1836; and the valuable appendix to the French Translation of the latter work by M. Bazin, 1837.

JAPAN.

ALTHOUGH the same reasons do not apply to the Japanese government which made it expedient to class the Chinese and Russian separately from the other despotisms of the East, yet the connexion of Japan with China renders some consideration of its institutions a convenient appendix to the account of that state. The information respecting Japan is far more scanty even than that which we possess respecting its more important neighbour; but it is also less involved in controversy.

The empire of Japan is spread over a cluster of islands varying exceedingly in their extent, and situated at the eastern extremity of Asia opposite to the Chinese coast. The whole are said to contain above half a million of square miles; Niphon or Nippo, the largest of the islands, and the seat of government, is nine hundred miles in length, and its average breadth exceeds one hundred. The whole population of the empire is about twenty-five millions.

There are some very remarkable peculiarities in the history of this state, and in its political institutions. It never was conquered; the race of native princes has always governed it; and the people who inhabit the country appear all to be of the original stock of the natives. The monarchy is supposed to have been founded as early as the year 660 before Christ, and their authentic annals record a succession of one hundred and fourteen emperors from that time to the end of the seventeenth century. But it is almost as singular a circumstance in an eastern despotism to find that women are not excluded from the throne. A queen or empress reigned with great glory for no less than seventy years of the third

century after our Saviour's birth. Of the fifteen sovereigns who reigned during the 172 years beginning 593 no less than eight were women. That they reigned peaceably is proved by the facts that their reigns lasted eighty-seven years—that one of them only did not die on the throne, and that she voluntarily resigned it to her nephew—that she lived five-and-twenty years after her abdication—and that she had begun her reign at the early age of fourteen. Of the whole succession for above three-and-twenty centuries, and 114 monarchs, that is down to the year 1687, when our accounts cease to be full or authentic, there had been no change of dynasty, a thing wholly unexampled in the history of the world, nor had there been a successful invasion. It is equally singular to observe how many infants succeeded to the sovereignty, all of whom appear to have reigned without any violence offered to them. There are also frequent instances of abdication, and no example of the monarch who resigned his power having afterwards died a violent death.

Some of these singular features in the history of the monarchy are to be explained by the peculiar position in which the sovereign was placed. He was endowed with divine authority; he was not merely the high priest, but he was believed to be himself a deity. He is called the Mikaddo, a name for the Deity, and sometimes the Dairi Soma. No regular succession, however, can be traced. Sometimes the eldest, sometimes a younger son succeeds; in some cases the tenth, and in some the fourteenth, in preference to the elder brothers. Frequently the brothers, one after another, to the exclusion of children—sometimes the widow, and sometimes the daughter, of the Mikaddo obtains the crown. Nor have we any means of ascertaining on what the choice depends, as the Japanese chronicles are exceedingly meagre in their accounts of these events, being chiefly filled with records of the storms, famines, inundations, earthquakes, and fires, which distinguished particular reigns.

But a change took place in the government of the Dairi Soma about the middle of the twelfth century. An ambitious soldier, called Jaroitimo, whom the Emperor had appointed Governor-General and General-in-Chief of his forces, obtained, by means of the influence he had acquired over the sovereign, the resignation into his own hands of the principal part of the secular power, continuing, however, to treat the Mikaddo as the ecclesiastical

chief of the state. The members of the general's family obtained the same appointment in succession for above four centuries, encroaching upon the Emperor's power till they reduced it to little more than a name, until the year 1583, when a person of base extraction, said to have been originally a slave, rose to be sovereign after an expedition in which the hereditary general and his son were killed. This man (Tidejori, but who took the name of Taiko or Taiko-Sama) completed the dethronement of the Mikaddo, who henceforth was confined entirely to his ecclesiastical functions, the general, under the title of Kubo Soma, having ever since held the whole secular power, which was afterwards usurped by another family, where it ever after continued to be hereditary. The Mikaddo all the while has retained the ecclesiastical sovereignty; and it has descended to his family. He has his court in the greatest splendour; he is looked up to as the divine head of the church; he receives at stated periods the homage of the Kubo or secular Emperor, who makes a progress from his capital, in prodigious pomp, to the capital of the Mikaddo, offering presents, and receiving the confirmation of his power, as indeed he, at each accession to the throne, receives his investiture from the Mikaddo. But the whole power is lodged in the Kubo, that of the Mikaddo being confined to his clerical functions, among which is the power of canonising, exercised by enrolling eminent men after their decease among the gods. It should however be observed that the signature of the Dairi Soma is required to give validity to all laws of the Kubo.

Thus was that revolution effected in Japan which the Emperors of Germany so long and so strenuously endeavoured to accomplish in Europe, of separating entirely the civil from the spiritual duties of the head of the church.

The two Emperors, in this manner, divide the whole authority, spiritual and temporal, of the state; that is to say, of the supreme or central power in the state; for the whole Empire is under a number of princes, each of whom enjoys absolute power within his own principality, though all are under subjection to the chief. The civil wars which have at different times disturbed the country have originated in the refractory spirit of these petty sovereigns; and it was by crushing a formidable resistance of this kind that Taiko acquired his ascendancy latterly, and Jaroitimo at an earlier period of the monarchy. Each petty prince has

his own army, but also is bound to raise and to maintain a certain number for the Emperor, whose whole force is said to exceed 120,000 men; while the several armies of the princes amount to about 400,000. We perceive from this how much larger a force is kept on foot in Japan than in China. The Kubo's army is in fact eighteen times more numerous, and seventy-four times more numerous in proportion to the relative population of the two countries.

The tributary princes are, in like manner, compelled to supply the pecuniary necessities of the state. The Kubo singles out such as he wishes to obtain money from, and requires a supply according to the exigencies of the occasion. Sometimes he directs a public work to be done by one or by a certain number of them, who must do it, or provide for the expense of having it done.

Great care however must be taken to keep these powerful subjects in obedience; and accordingly the Kubo obliges them to leave their families at Jeddo, the capital, and to reside there themselves a considerable part of every year. There seems reason to believe, however, that hostages are taken and residence required, not from all the princes, but only from the class called the *Soamios*, who are governors of districts, and of inferior power to the *Damios*, or governors of provinces. The Soamios, being more dependent on the Kubo, are thus easily made the instruments of keeping in subjection the Damios also; and the mutual jealousies of those princes are the chief grounds of the Kubo's power. It is reasonable to suppose that the Kubo, beside the supplies in men and money which he obtains from the vassal chiefs, has in his own separate dominion more territory, subjects, and resources, than any one of the tributaries.

It is singular that in an empire where the nominal head is a priest and even a deity, and where for many ages the secular power was really lodged in this chief, sects of a different religion should have flourished. The religion of the country allows the worship of men deified, but it differs from the Confucian doctrine by recognising a future state of rewards and punishments. It has also priests called Bonzes, who are the attendants, servants, and representatives of the Mikaddo, and who are in all respects separate from the civil classes of the community.

Nevertheless so tolerant was this hierarchy, that the doctrines of Confucius at an early period found a favourable reception in

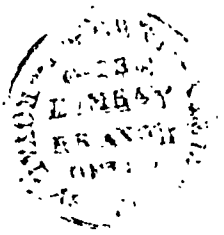
the Empire, and gained a vast number of converts. The Kubo, at the beginning of the eighteenth century, was himself of this sect; and the progress which it had made at an earlier period is supposed to have not a little helped to undermine the Mikaddo's authority in secular matters. The faith of Buddha has also at all times had many followers; and at one period Christianity made great progress among the people, and even among some of the princes, through the zealous labours of the Portuguese missionaries. Unfortunately these pious men let their worldly pride mix itself with their religious enthusiasm; they fell into a dispute with the secular authorities about precedence, and this was made a pretext for beginning a persecution avowedly directed to their extirpation, and prompted by the progress which they had made and the disposition they had showed to affect temporal power. After forty years of such cruelties as never were practised in any other country, unless by the Spaniards in South America, the Christians were still numerous enough to take arms when they saw their utter destruction resolved upon. Above 30,000 are said to have taken the field, and, being overpowered, they were put to the sword. Their religion was finally forbidden under pain of death; all who professed it, but especially priests, were sought out for slaughter; and Japan was finally shut against all intercourse whatever with foreigners. The Chinese and the Dutch are alone suffered to hold any communication with the Japanese, and that under the severest restrictions, amounting to imprisonment with considerable indignities, all the while they continue within the country; and even such restricted intercourse is confined to a certain narrow spot. The Chinese are allowed this privilege on account of the arts and learning known in Japan having been originally brought from China; the Dutch owe it to their having discovered and informed of a plot carrying on against the Japanese government by the Portuguese before their expulsion. The exclusion of foreigners and the final abolition of Christianity took place before the middle of the seventeenth century, and to the accident of an embassy sent thither by the Dutch about fifty years later we owe the most authentic account of the Empire, that of Kœmpfer.

The absolute power of the Kubo in his own peculiar territory, and of the princes in theirs, is as complete as that of an eastern prince can be, and it seems to be in no respect tempered by any established usages or any opinions prevalent among the people.

The code of laws is sanguinary in the extreme. Taiko, who enacted it or compiled it, is supposed to have framed it upon this sanguinary model in order to help his usurpation by restraining the people through fear, after he had reduced the princes by engaging them in expensive wars. A common method of execution is by ripping open the bowels; and, as a refinement upon this cruelty, the unhappy victim is in certain cases compelled to execute the sentence on himself. So brutalising is the effect of such a code, that suicide, which is frequent in Japan from the ungovernable temper of the inhabitants, is generally accomplished by that horrible method of infliction. The barbarous plan of frank-pledge, known to our Saxon ancestors, which we have seen prevails in China is also a part of the Japanese law, but more systematically than in China, and more exactly according to the Saxon model. The inhabitants of each street are bound mutually for one another's good conduct; they are in respect of that responsibility allowed to appoint a commissioner to superintend their local police, and all this is independent of the magistracy which has the general care of the town or district.

The state of education and of knowledge seems to be nearly the same in Japan as in China, except that the system of literary rank is unknown there. But education is everywhere much attended to, and especially at the Dairo or court of the Mikaddo. Learning is generally prized; but it is confined to reading, writing, acquiring the religion of the country, and music.

The character of the Japanese is widely different from that of the Chinese; they have all the defects, and all the excellences that usually accompany a high spirit; they are fierce, cruel, capricious but they are also just, honourable, open, and brave; nor is it easy to avoid a belief that the frequent wars in which the nature of their federal or feudal government engages them has produced this character, while the government plan of educating has stamped another upon their neighbours.



CHAPTER VII.

GOVERNMENT OF RUSSIA.

Uncontrolled power of the sovereign—Fallacies of authors in speaking of its limits—Catherine II.'s defence of it—Origin of the monarchy—Absolute power of the sovereign a favourite with the nobles—Formal establishment of despotism by Peter I.—Succession to the crown—Real nature of the supposed elections—Romanhoff family—Peter I.—His son's suspicious death—Sovereigns since Peter I.—Illustrations of principles respecting absolute monarchy—Insecurity of absolute sovereigns—Levelling policy as to ranks in Russia—Administration of justice—Check from fear of revolt—Inefficient—Cruelty and caprice of Russian sovereigns—Russian and Turkish governments compared—Similar apologies for abuses in free governments—Judicial system in England—Check from public opinion in other countries—Foreign policy of Russia—Constant acquisitions—Warlike nature of despotism—Sketch of Russian aggression—Principles illustrated—Sacrifice of public interest to the sovereign's caprice—Personal feelings the guide of Russian foreign policy—History of Russian aggression continued—Origin of Polish partition—History of Russian civilization—Popular errors respecting authors of great improvements—Peter I., and those who preceded him in this—Voltaire's misconduct.——APPENDIX;—Organization of Russia—Its government and administrative departments.

THE government of Russia is in its form, and by the laws, as absolute as that of Turkey, of Persia, or of China; but there is a great mitigation of its severity in practice. The Emperor or Czar, as he was called till the time of Peter (1721), has the sole and supreme power of legislation in his own hands, and the uncontrolled nomination to all places, civil, military, and ecclesiastical. There is no body established in the country with any rights which can in the least particular interfere with his prerogative. All institutions exist during his good pleasure, and whatever is done by any public functionary, or board, or body of any kind, is done in his name, derives its force from his authority, and is liable not only to have its acts annulled by him, but to be displaced, as regards the individuals composing it, or annihilated as an institution. This, indeed, is comprised in the fact of the supreme legislative as well as executive power being entrusted undivided to him alone.

To speak of any rights enjoyed in such a state is manifestly absurd; and not less so to speak of fundamental laws, which

nevertheless authors frequently do mention. Schlætzer, a German, who has written an historical inquiry concerning the Russian empire and its constitution, is not very wide of the truth in saying, that the fundamental laws are only two—one relating to the sovereignty, or absolute power of the prince—the other to the hereditary right of his posterity to the succession. But if by this he means that even these may not be altered, the proposition is not only false—it is inconsistent with itself—it is self-repugnant; for the absolute power of the prince gives him a right to confer a free constitution on the people, and it gives him a right to alter the order of succession as he pleases. Indeed, all writers on Russia admit that he has this latter power in its fullest extent, and it is one not unfrequently exercised, as far at least as any such power can be carried into effect, which must always depend on the relative strength of parties after the monarch's decease, that is at the moment of the event. Others have denied that so short and so simple an enumeration as M. Schlætzer's completes the catalogue of these fundamental laws, and among them Mr. Tooke, who seems to have been imbued with the fundamental Russian doctrine, promulgated by Catherine II. in one of her manifestoes, that, in so extensive an empire, absolute power is necessary to hold it together and keep the people under. It appears therefore the more strange that he should set so much store by proving that there are fundamental rights of the people as well as of the Crown in Russia. But his enumeration of these rights, far from demonstrating, seems rather to disprove their existence. "They are grounded," he says, "either on the idea of subjects, or on the end and aim of a constitution, or on old-derived customs, or on written fundamental laws, or privileges that stand in place of law, and the like." How can any right of the subject be grounded "on the idea of subjects"—which phrase, if it is used with any meaning, can only signify the relation or idea of subjection? How can "the end and aim of a constitution" be the foundation of a right? It may be a good reason why there should be rights enjoyed by the people; but when the nature of a constitution is such, that the prince is absolute, to say that "its end and aim" gives the people "rights," is only saying that it ought to be different from what it is, or ought to be wholly changed, before the people can enjoy any rights at all. As for old customs,

written laws and privileges, and "the like," the author distinctly admits their futility, if any such exist, which he is far from showing; for he repeatedly states that the "legislative authority is in the monarch alone"—"that neither nation, nor members, nor classes of it can claim any part in it"—that all laws exist in his name and under his control—that he is absolute and uncircumscribed in all respects; and he mentions his power of "giving new laws whenever he thinks proper, ecclesiastical as well as civil," "altering those in being," "raising taxes, levying recruits, granting privileges and exemptions, conferring titles, establishing or abolishing monopolies, settling or abrogating imperial dues;" and states the only check on him to be his own interest—"internal sense or conscience," "desire of leaving a good name behind him," "pleasure in his people's approbation;" and last, though not least, "dread of discontents or even rebellion." It is not easy, then, to see what the author can mean, when he says that the people have, "by the fundamental laws," a right to "security of person, reputation, and property; justice not denied; legal protection against violence and oppression; unmolested enjoyment of all lawfully obtained immunities, privileges, and rights;"—which he illustrates by adding, that "the nobility may justly demand the privileges granted in Letters of Grace—as the exemption of 1762 from compulsory military service—the right of possessing estates and vassals granted in 1785,* the form of which is called in the patent right fundamental, and unalterable for ever." So, he says, may the burghers appeal to the privileges granted in the Regulations for Townships. But it is clear that his general enunciation of rights is only an enunciation of such as the people *ought* to have; *e. g.*, security of person and property, and not at all such as they *do* enjoy; for he does not pretend that if the prince or any of his officers commits even a glaring violation of those rights, any remedy whatever, any redress of the grievance, is provided for the injured party, or any penalty for the wrong-doer.

Let us now hear how the Russian sovereigns themselves represent their authority. The Empress Catherine II. issued Instruc-

* Mr. Tooke is mistaken in this instance; the right of possessing estates was as ancient as the monarchy, and prædial slavery had been established in the reign of Fedor Ivanovich (1584-1598) by Boris Godoonoff, the guardian and successor of that Czar. An ukase in 1782 granted to the nobles all minerals found on their estates.

tions in 1785 to a commission to frame a code of laws, and she therein sets forth at much length her notions respecting the prerogative. She begins by stating that the "sovereign is absolute—that no other than an authority concentrated in his person can adequately operate through so large an empire." She condescends, even, to reason this point: "An extensive empire presupposes an unlimited power in the person who governs it. The celerity of decision must compensate the tardiness that arises from the remoteness of the places from whence matters are brought." "Any other form of government," she adds, "would not only be prejudicial to Russia, but even be the cause of its total ruin." She then gives this argument: "Another reason is, because it is better to obey the laws under one ruler, than to conform to the will of many." But lest men might fancy this kind of government at all inconsistent with freedom, she proceeds to show that it is the best also for the people. "What is the aim," she asks, "of an absolute government? Not to deprive mankind of their natural liberty, but to direct their actions to the maintenance of the national prosperity." From hence she infers that a government which is more than others constituted to that end, and at the same time contracts natural liberty less than others, is that which "best coincides with the aims attributed to rational creatures, and is most adapted to the object for which civil society is instituted." She then proceeds to inquire what the object of an unlimited government is, and finds it to be "the glory of the citizen, of the state, and of the sovereign." But the most remarkable part of the imperial argument remains:—"Among a people," says she, "who live under a monarchical government, from this glory flows the spirit of liberty, which, in those states, bursts forth in such great actions as are able in the very same proportion to promote the happiness of the subjects, with liberty itself." To all this it is enough to answer (and we are stating a plain matter of fact, and not merely giving vent to invective or flinging about sarcasms), that if any person in Russia had been so rash as to expose a single one of the numerous fallacies and sophisms contained in this piece of reasoning, or to deny one of the facts so falsely affirmed in it, he would have experienced how true the first of its propositions is—that of the sovereign being an absolute, though not an accurate, logician—by being flogged with the knout in public, or taken out

of his study in the middle of the night, and sent for the rest of his life to work in the mines of Siberia.

It was in the middle of the ninth century (862) that Rurick, a Scandinavian prince, established at Novgorod the foundations of the Russian empire. His government was rather feudal than despotic. He parcelled out among his companions large districts, of which these became independent chieftains: and although his successors, who, under the title of grand dukes, fixed their capital at Kiev, upon the Dnieper, claimed over these princes some kind of authority, yet it was often rather nominal than real; the companions of Rurick and their descendants regarding themselves as the partners, not the subjects, of that conqueror and his family.

At the beginning of the eleventh century the whole country, from the Baltic to the Black Sea, and from the Volga to the Carpathian Mountains was united under the sway of Vladimir, whose son Jaroslav having acquired it in 1020, after four years of civil warfare, promulgated a code of laws much upon the model of those of the Germanic nations:—Capital punishments were unknown to it—crimes were punished by fines (the wehr-gelt of our Saxon ancestors) according to their heinousness and according to the rank of the aggrieved parties. Jaroslav's code acknowledged three conditions among the people:—1st. The Boyars or Tins, a rank probably similar to the Saxon Thane, and rather implying possession of land than political power; 2nd. All other freemen; 3rd. The Slaves; Serfs, or prædial slaves, not having been established until six centuries later.

After the death of Jaroslav the Grand Dukes of Kiev again lost all but a nominal supremacy over the other princes of Russia; and it is to the conquest of Russia by the Tartars that the consolidation of the Russian empire and the establishment of despotic government there must be attributed. In the early part of the thirteenth century (1224—1339) the Moguls or Tartars, who had, as we have seen, conquered China, overran Russia from the Caucasus, its extreme southern boundary, nearly to the very shores of the Baltic, spreading desolation wherever they went, and reducing the whole country to a state of abject submission. Until then great public questions were discussed in popular assemblies (viecha) held in the open air. Thus after the murder of the Grand Duke Andrew, who had established his capital at Vladi-

mir, a viécha was assembled in 1174, who chose a prince to succeed him; and afterwards being dissatisfied with him took occasion to declare that they had received the prince, and sworn allegiance to him of their own free will. When, however, the Tartars had reduced to submission not only the grand dukes but all the petty princes of Russia, these found it profitable to avail themselves of the power of the conquerors in order to extend their own dominions. Thus perpetual intrigues were carried on at the court of the Khan, which was at this time established at Saray, on the Volga; and sometimes the grand dukes would travel through the vast regions of central Asia to the court of the Great Khan, which at this time was seated on the banks of the river Amoor, in Chinese Tartary, suing to him for a confirmation of their own possessions, or for a grant of the lands of their neighbours, whom they would denounce as enemies of the conqueror. By such means the Grand Duke John Danielovich (1328—1340) extended his dominions far beyond his original principality of Vladimir, purchasing one state, seizing another, and obtaining others by grants from the Great Khan. He transferred the seat of government from Vladimir to Moscow, where it remained for nearly four centuries; and under the protection of the Tartar conquerors he laid the permanent foundation of that vast monarchy which now subsists. His successors followed his example, acknowleding the supremacy of the Tartars to whom they paid tribute, but using the power of the invaders for the oppression and pillage of their neighbours and of their own immediate subjects.

In 1476 Ivan III., a descendant of Rurick, paid tribute to the Tartars for the last time, and Russia became an independent state. But although the subjection to their foreign conquerors was at an end, the effects of that subjection have not yet passed away either from the form of government, the administration of justice, the collection of the revenue, or the temper of the people. For the mild code of Jaroslav were substituted degrading corporal punishments, branding, the knout, mutilation, and often death. The people, oppressed not only by the exactions of the Tartar Baskaks but by that of their own princes, were reduced to abject misery, and had lost the habit of defending their rights by the sword. The nobles, beside being equally exposed to this sort of oppression, were enfeebled by their mutual

animosities, and feared to oppose the encroachments of their immediate prince's authority, lest he should resort to the Khan, the common enemy, and crush them absolutely. The petty princes, who had not been robbed of their states, unable to resist the power of the grand dukes strengthened by the Tartar sword, found it expedient to sell their dominions, reserving only to themselves an empty rank and an insecure revenue. Treachery, secret denunciations, and intrigues, were found still more efficient weapons than the sword; and when the Tartars were finally expelled from Russia, all ranks of society were reduced to desire any form of government which should maintain for them security and repose at whatever continued sacrifice of individual freedom.

Thus when Ivan III. (1462—1505) subdued the republic of Novgorod (which with Pskov alone retained its ancient liberties), assumed the title of autocrat (*i. e.* self-empowered or self-authorised monarch), and adopted, as the emblem of his authority, the double eagle of the emperors of Constantinople, he found all classes of the people well pleased to submit to his despotism,—a state of mind which subsisted for many ages afterwards—perhaps still subsists—and has, on memorable occasions, made even the Boyars impatient of any relinquishment of his absolute power by the Czar. At different times afterwards attempts were made, and frequently with success, to confine the royal authority. The princes and clergy were the authors of these; but they seem to have received little countenance from the Boyars, or the great body of the people. Thus when Ivan Vassilovich summoned in 1550 the territorial council (Zemskaya-Duma) composed of clergy, Boyars and military, to determine on peace or war; they answered that it was their duty to support the Czar with their prayers, their purses and their swords, but not to direct his conduct. On another occasion, after the extinction of the family of Rurick in the direct line, Shooyski, a patriotic man, who had become Czar (1606—1610), by the aid of a party at Moscow, but without the confirmation of the Zemskaya-Duma, voluntarily swore at his coronation not to punish any persons for treason without the judgment of the Boyars; not to confiscate the property of convicts, and to allow accused persons to confront their accusers, visiting upon the false accuser the punishment which he would have brought on the accused,—it is said that the nation disliked and

rejected these restrictions on the power of the crown; alleging that it behoved the nation to pledge itself to the Czar, but not the Czar to the nation. Again, when Shooyski was deposed by the aid of a Polish army, and Zolkiewski, its general, promulgated a similar code, recognising the legislative, and, to a certain extent, the administrative power of the Boyars, he met with little support from this very class, who seemed intent only on maintaining the integrity of their church, and were little mindful of popular rights. Finally, when in 1613 the family of Romanoff was raised to the throne, a charter of settlement, signed by a number of persons supposed to represent all ranks of the nation, laid it down that the prerogative of the sovereign was by the ancient laws absolute. Encroachments were afterwards made at different times, and chiefly by the Boyars, who appear to have been the most powerful officers of the crown; and though their authority, and even their rank, was not hereditary, all depending upon the nomination of the sovereign, yet in the times of young or of weak princes, they obtained great ascendancy; and, from their body, a kind of council or ministry came to be established, called the Boyarshir Dvortsh, or Court of Boyars. They assumed, at least in name, a power of legislation jointly with the Czar, and all decrees were headed "By command of the Czar, and with the approbation of the Boyars." The government of provinces, as well as the great offices of state, were intrusted to them; and, with such variations as the greater or less vigour of the reigning prince's character might occasion, this body may be said to have exercised an aristocratic influence or even dominion in the state: yet its origin is buried in obscurity. We cannot even trace when Boyars were first known;* nor how far they had, in point of fact and usage, a hereditary successively-renewed appointment of the Czar, who is admitted to have had the power of displacing any one, and of refusing to continue the rank to his successor. They exercised, however, substantial authority at various times, and, together with the clergy, even assumed the right to confer certain titles of nobility, or at least land-rights, which in Russia are confined to persons of this rank. But Peter I., in 1701, wholly put an end to their powers. He abolished their dignity, substituted a senate of his own appointment, and totally dependent

* Nestor, a monk of Kiev, the Russian chronicler, who flourished in the eleventh century, mentions them as existing in the previous century.

upon him, in its place; and ordered that all decrees should henceforth be made in the name of the Czar alone, or rather of the Emperor and Autocrat. In his person, therefore, the ancient despotism of the crown was formally established perhaps rather than restored, and has ever since continued in its full vigour. An attempt was made, on the death of Peter II., when his sister Ann Ivanowna, Duchess of Courland, was made Empress, to impose conditions limiting the prerogative and dividing the supreme power between the Emperor and the Privy Council. She accepted the terms, and signed the articles in which they were contained when the deputation presented them to her at Mittau; but the principal nobility, on her arriving at Petersburg, petitioned her to revoke her assent, and to hold the crown upon the same terms of absolute monarchy on which her predecessors had received it—a request with which, as may well be supposed, she readily complied.

We are next to consider the succession to the Russian crown. This has been for about a thousand years what, in one sense, would be called hereditary; that is to say, from the time of Rurick it has been in the two families which, one after another, have held the crown—the one being called to the throne after a period of anarchy and various sovereignties which followed upon the other family's extinction, and lasted for fifteen years. But no certain rule of selection has been followed with uniformity in determining which member of the family should succeed. The eldest son of the Czar, and the daughter, where there are no sons—or the eldest brother and eldest sister, where children fail—may, perhaps, be said to be the heirs to the crown according to the law of the constitution. But this is only where nothing occurs to interrupt the quiet and more regular course; and interruptions have been almost as frequent as regular successions. The infancy of the next heir, his weakness, the power possessed by a brother, by a widow, or a sister, or even a cousin—have constantly given rise to changes, and these have been sometimes quietly and sometimes forcibly effected. Sometimes, we are told by historians, that such a prince or princess was raised to the vacant throne by election; but there is nothing deserving this name in almost any of the proceedings thus referred to. A party of the nobility, or of the clergy, or of the military, or other chiefs, have frequently raised a person to the throne; but in these instances the act much rather resembled a revolution than an elec-

tion, and probably in all of them (if we knew their secret history) usurpation is the proper name to employ; for there can be little doubt that these movements were instigated by the person described as chosen, and at any rate they were carried on by his partisans in concert with him. In other instances the proceeding wore the aspect of open and avowed conspiracy, and a seizing upon the throne by the person himself, with the help of some followers, and through the mutiny of the troops. Thus the succession, although descending in the imperial family, has gone far less according to any fixed rule than in any other of the European states, Turkey alone excepted.

Perhaps the proceedings which took place in 1598, when the family of Rurick, which had reigned since 862, became extinct in the direct line, and in 1613, when that of Romanoff obtained the crown, are more like a choice by the community than any others in the Russian history; and yet even these were most probably rather intrigues and conspiracies than elections. Boris Godoonof, whose sister was married to Feodor, the last Czar in the direct line of the family of Rurick, had acquired great riches through the influence which his connexion gave him. He despatched, during Feodor's lifetime, Demetrius, the brother and heir apparent of the Czar; removed many other principal persons in like manner by assassination; and is supposed to have disposed of Feodor himself in the same way. The patriarch, or high priest, who owed his appointment to him, and a powerful party espoused his cause. In the archbishop's palace, what historians call a meeting of the people was held; the crown which Feodor had bequeathed to his widow Irene, who persisted in her refusal to accept it, was offered to Boris, and, after much of the affected reluctance customary in such cases, was accepted. In the course of two or three years a monk, who resembled the murdered prince Demetrius, pretended that he was that unfortunate individual, and took refuge in Poland, where he was encouraged in his design upon the crown of Russia. After many preparations, by distributing manifestoes among the people and gaining over the Cossacks whom Boris had offended, he entered the Russian territory, in 1604, in some force; and, being joined by great numbers, defeated Boris, who soon after poisoned himself, and left his son, an infant, to succeed him. But the pretended Demetrius deposed the child, put him to death, and was crowned Czar. His cruelties and debauchery, however, excited the discontent of

the people; and a nobleman, of the name of Shooyski, at the head of the multitude, drove him from his palace, and put him to death. The inhabitants of Moscow chose Shooyski for Czar. Another impostor soon appeared, pretending also that he was Demetrius; and, although he never succeeded in obtaining the throne, he yet had a powerful party, which harassed Shooyski, and forced him to abdicate the crown. The resemblance of this period of Russian history is remarkable to that of England in the reign of Edward IV. and Henry VII. We are fairly reminded of the usurpation of Gloster, afterwards Richard III.—his murders in the royal family—his defeat—and the attempts of Lambert Simnel, pretending to be one of the murdered princes. The Poles, who had so powerfully aided the two pretenders, now succeeded in causing Vladislas, one of their own princes, to be made emperor, but he never occupied the throne; and at this period, their troops marching into Russia, committed the most cruel excesses. The Russians at length succeeded in driving them out of the country; and a general wish was felt to have a native Czar, who might, by maintaining regular and vigorous government, restore for some time the public peace. With this view Michael Romanoff, a distant connexion of Feodor, and so of the family of Rurick, was raised to the throne, as is said, by an assembly of deputies, who came to Moscow from all parts of the empire. It is not pretended however that these persons were formally authorised by any bodies of men to represent their wishes. There were, indeed, no bodies to choose deputies; therefore they must have been merely persons of some weight in their different neighbourhoods, who were anxious to see a settled government which might exclude the interference of Sweden and Poland. At their meeting, when Romanoff was proposed, the priests warmly supported him, in the fear lest any foreigner of another religion should be brought forward. He was the son of one of their body, an archbishop (then a prisoner in Poland), whom he afterwards made patriarch: this, probably, gained him the support of the clergy at large; and one of their body declared that he had been visited by a revelation from Heaven, strongly recommending the young man. This communication removed all doubt, both in the meeting and among the people, who were chiefly under the guidance of his father, a man of capacity and of ambition; and no one daring to question the

veracity of a holy personage, Romanoff was raised to the throne. He was succeeded by his son Alexis—then only fifteen years of age; but Morosoff was named regent by Michael Romanoff before his death. Alexis left two sons by his first marriage, Feodor and Ivan, and one, Peter, by his second. Feodor succeeded him, and, leaving no children, was followed by Ivan; who, being weak in body and mind, after reigning a few months alone, joined his half-brother, Peter, with him; and Peter, being then only a boy, Sophia, Ivan's sister of the whole-blood, was joined with them as Regent, under the title of co-sovereign. She, supported by a powerful party, endeavoured to usurp the government, and employed many devices to assassinate Peter. At length, after several rebellions, in which she was able to destroy a number of her enemies through the Strelitz guards whom she had in her interest, she was overcome by Peter, who ruled nominally with his half-brother till his death in 1695, and afterwards alone.

At the termination, in 1721, of the war with Sweden, which he had carried on for eighteen years, and in which, beside regaining what the Swedes had taken from Russia, he obtained a considerable acquisition of territory, Peter took the title of Emperor* and Autocrat of all the Russias. The latter word is Greek, and means a being self-authorised, or whose power proceeds from himself, and is independent of any other being: it is a name usually given to the Deity. In Russian it is Samoderjetz. He was further called Father of his Country, and Great. The former appellation he in some respects deserved, because, though a barbarian in many of his habits, and a despot of ferocious disposition, his policy (that of a reformer, which made him hated by the clergy whom he in his turn despised) much improved his people and advanced their civilization; the latter name was given him, as it always has been, by the foolish and wicked taste of

* The title of Emperor being disputed by the court of Vienna, Peter proved that it had been used by the Emperor Maximilian concerning the Czar of Russia in a treaty with Vassili IV., in 1514, probably in consequence of a confusion between the title Tzar or Czar, and the German word Kaiser, which means Emperor. Queen Elizabeth, in a secret letter, dated 18th May, 1570, to Vassili's successor, Ivan Vassilovich (truly named the Terrible), offering to him and his family an asylum in England if he should be driven out of his own states, styles him "the Greate Lord Emperor and Greate Duke Ivan Bassily of all Russia;" and she afterwards alludes to "the noble Empresse your wife." There is reason to think that the English always treated him as Emperor.

nations for war—the worst curse that can visit them, and the successful waging of which, as it is an aggravation of the guilt, has hitherto been deemed the only title to the highest appellation conferred by its victims.

Peter I. died in 1725. By his first wife, whom he disliked and shut up in a convent, he had a son, Alexis, who siding with the priests incurred his hatred; Peter therefore had him tried and condemned to death upon a supposed plot to dethrone him: the communication of the sentence threw the young prince into fits, which carried him off. Such, at least, is Peter's account of the matter; but the general belief is that he had him murdered in prison. Alexis left a son, Peter; but as the father had been declared to have forfeited the crown, though this boy was ten years old, the father's alleged forfeiture was supposed to set him aside. Peter I. had indeed published a law in 1722, abolishing hereditary right, and declaring the power of every sovereign to choose his successor; and he had, moreover, made one of his bishops publish a work to prove the right of arbitrary appointment; but he died without making any nomination. He had, in 1702, taken prisoner a soldier's wife, named Catharine Skauronsky, whom he married after she had been mistress to several of his officers, though his first wife was alive and indeed survived him. By Catherine he had several daughters. As the grandson, Peter, by Alexis, was a boy with no party but the clergy to support him, Catherine took possession of the government by the aid of the guards, whom she and one of her favourites, formerly a servant, Mentzicoff, had bribed; and she reigned as empress till her death, in 1727. She was the first woman who had filled the throne since the tenth century. She had a will prepared, by which she named Peter, son of Alexis, her successor; and he being only twelve years old, reigned nominally till his death, in 1730; the favourite Mentzicoff first, and after his fall and banishment to Siberia, the Dolgoroucki family exercising the authority of government.

Catherine's will directed Ann, her eldest daughter, to succeed in case of Peter's decease; and after her, Elizabeth, her second daughter. But Ivan, Peter's half-brother, had left three daughters; and the council chose to make the second of them, Ann Ivanowna, empress, who was widow of a Duke of Courland. Her eldest sister had a daughter, Ann, by a Duke of Mecklen-

burg; and upon Ann's infant son, Ivan, by a Duke of Brunswick, the Empress Ann, by her will, made immediately before her death in 1740, settled the succession, appointing as Regent during his minority her favourite, Biren, whom she had raised from being a gentleman of her bedchamber, a grandson of an ostler, to be Prime Minister and Duke of Courland. The mother, Ann, however, soon seized upon the regency, banishing Biren to Siberia: but after she had governed about a year, Elizabeth, daughter of Peter I., by his second wife, having, through the agency of Lestock, her physician, gained over the guards, seized upon the government, banished the Regent Ann and her husband, and imprisoned the young Emperor Ivan, who, after being kept in a state of the most cruel torture, under confinement in a dungeon, for many years, was at length murdered by his keepers in 1754, to prevent his escape.

Elizabeth was Peter I.'s second daughter. Her eldest sister, Ann, had been married to the Duke of Holstein, and by him had a son called Peter, whom Elizabeth named her successor, and he reigned, from her decease, in 1762, for six months, when his wife, Sophia, Princess of Anhalt, had him murdered, by the help of the Orloffs, her favourites, and usurped the government under the name of Catherine II. She reigned till her death, in 1796, having passed a life of as great private profligacy and as great wickedness in her public conduct as any sovereign of any age; but she was revered in Russia as a vigorous sovereign, and feared abroad as a powerful ruler and a successful and unprincipled conqueror; and as she favoured and patronised literary men, they joined in bestowing upon her their mercenary praises. That she was a princess of extraordinary capacity it would be as vain to deny, as it would be criminal to suppress our indignation at her crimes, of which the partition of Poland is the most flagrant. It must also be admitted of her, that hardly any other sovereign, how well fitted soever to meet ordinary persons in the discussions of society, has shown so noble a disregard of the royal station, or so fairly entered on equal terms into the struggles of argument and conversation. A more remarkable proof of greatness of mind cannot be given. She was succeeded by her son Paul, who, after reigning five years, was in his turn murdered, and his son Alexander succeeded him. This prince died in 1825—not without suspicion

of poison. He left no children, and his elder brother (Constantine) being passed over, Nicholas, the next, took possession of the government, and is the present Emperor.

We have gone thus minutely through the history of the succession in the Russian monarchy, chiefly for the purpose of showing how little the tendency of absolute monarchy is to produce that greatest of all advantages, a regular and uncontested transmission of the supreme power,—the only benefit of hereditary succession, and the only advantage which it has to set off against the many and serious evils that are necessarily connected with it. The historical details into which we have entered prove incontestably the truth of what was asserted in a former treatise,—that nothing can be more insecure, nothing more exposed to violent and sudden changes, than the possession of the Crown in despotic governments, where the interests of the community at large are quite unconcerned, and their feelings unengaged in any contest for transferring power, or in any efforts to retain it. We have seen that in the century and a half which elapsed from the death of Feodor Alexiwich, in 1682, to the accession of the present emperor, there have been eleven successions to the throne. The course of descent was first nominally to the two brothers of Feodor jointly, and to the youngest, Peter, in reality; next, to his widow—a soldier's trull, of the lowest extraction and most abandoned character, wholly unconnected with the imperial family; then, by her will, to Peter II., grandson of her husband; then back again to Ann, the second daughter of Ivan, Peter the I.'s elder brother; then to Ivan, Ann's great nephew by her eldest sister; then to Elizabeth, second daughter of Peter I.; then to Peter III., her nephew by her eldest sister Ann; then to his wife Catherine II., originally a German princess, and wholly unconnected with Russia; then to their eldest son Paul; then to his eldest son; and, lastly, to that son's younger brother, the elder still being alive. Thus of these eleven successions to, or devolutions of, the Crown, no less than six were total deviations from the regular course; that is to say, from the rule by which each had succeeded previously. Strictly speaking, the deviations were even more numerous. But, at least six of these successions were usurpations; there were, of these six successions, four of a violent nature; and of the six male sovereigns who have died during that period, three, at the least, have been murdered.

So true is it, that despotism gives as little security to the throne as it does happiness to the people! Yet out of its mischiefs comes one advantage or alleviation. The evils of a disputed succession, which are so numerous in free countries, are much less felt under absolute monarchies. Civil war, the most severe of national scourges, is much less likely to break out for the conflicting claims of rival candidates, where the people being enslaved care little by whom they are ruled. In any of the more civilised and freer countries of Europe there never could have happened the revolutions which placed Catherine I., Ann, Elizabeth, Catherine II., and Nicholas, on the Throne, without a large party espousing the cause of the princes dethroned or passed over. In Russia, the moment that the guards and a few nobles, getting the upper hand, had established their favourite upon the throne, the whole country acquiesced in sullenness or indifference, and no blood was shed beyond what the first and only movement required.

The whole authority of the Russian government being vested in the emperor, and only shared by his delegation with any other person, nothing that can be called power resides in anybody except the Sovereign. The Councils, Cabinet, and Colleges, including the Senate, are all the mere instruments of the imperial will. At the end of this chapter is an Appendix showing the present organization of the Russian government—an organization which may of course be abrogated in part or altogether, by the absolute pleasure of the Czar at any moment which he may select.

The policy of the Crown in Russia has always been to level all distinctions among the subjects, as far as the existence of a titular nobility will allow. The mere rank of noble amounts to little more than the state of freeman, as contradistinguished from that of the vassal or serf who belongs to the owner of the land, and as it entitles those who have it to possess landed property. It confers no other privileges. There are persons of higher title, as princes and nobles, who are descended from a long line of noble ancestors, and some are described as the "*real nobility*," who can trace the possession of arms, seal, and title for one hundred years in their family. But in all privileges, and indeed in estimation and precedence also, those who have nobility by virtue of military rank, that is, of the eight ranks in the army from staff officers upwards, are entirely on the same footing with the most eminent nobles of the empire. The general

rule is, not only that birth and titles give no kind of precedence over military rank, or title derived immediately by creation from the Crown, but that without office, and especially military office and rank, no title to precedence or estimation exists;—and hence all persons, even in civil stations, are endowed with titular rank in the army, in order to give them that which alone is deemed real and effectual precedence. It is plain that a nobility so constituted is wholly the creature of the Crown, and can in no way whatever either share or control its power, or exercise any kind of influence in the State, independent of the Prince, much less controlling his power.

The proceedings of Feodor Alexivich, in the latter part of the seventeenth century, respecting the nobility, are remarkable. No act of power can suddenly abolish the estimation which may be derived from the possession of hereditary honour; that is, from being descended of those who in their day have filled high offices, or done great service, or held exalted rank. If men choose to regard such descent as honourable, no act of tyranny can prevent them from doing so, and no abolition of hereditary distinction can suddenly turn back the tide of public esteem. But that Emperor made an attempt even of this kind, under pretence of only putting down the extravagant pretensions which the nobility founded upon their ancient descent. They used to preserve their pedigrees with extreme care, setting down in books every office, civil or military, which their ancestors had ever held, and all their relationships with other distinguished families. From the contemplation of such records they became extremely proud and troublesome. A person would not serve under one who numbered fewer distinguished ancestors than himself, or whose ancestors had held inferior employments, either civil or military. It thus became necessary to have a public Registry of Service, to which appeals might constantly be made when disputes arose. Feodor ordered all the families to bring in their pedigree books, under pretext of having them rectified. He then assembled a convocation of the great men and clergy. Speeches were delivered, appealing to the unreasonableness of supposing that talents were hereditary, and to the impiety of restricting men's actions according to the merits of their ancestors; and an assent having been obtained to destroy all those documents, they were suddenly brought out and piled in a huge heap in the neighbouring square,

where they were consumed by fire before the eyes of the assembly, who said *Amen* to a curse which the Patriarch pronounced against all who should act contrary to the spirit of that extraordinary proceeding.

The eulogists, or the apologists, of the Russian Government are extremely anxious to assure us that the affairs of the State are administered according to law—that the Emperor allows justice to take its course—that the property, and life, and liberty of the subject are safe—and that the sovereign power is only seen and felt in the operation of the law. Catherine II., in her Instructions, to which reference has already been made, asserts, that reputation, property, and life are safe to all—that the tribunals must decide—and that where a dispute arises between the Crown and a subject, the judge only can be appealed to, and he determines.

All this, however, amounts, and can amount to nothing more than a statement, that the sovereign power is exercised voluntarily by its possessor in a way less violent and capricious than the law allows. He may do as he pleases, and all he pleases; but he chooses to do much less than he might, and to act much more according to fixed rules than he is obliged to do. He is confessedly above all laws, and bound by none. If he is pleased to act according to certain rules, or as though he were bound by them, the reason is, that custom has rendered this what the people expect, and that disappointing their expectations might prove the source of discontent and of trouble, or even danger, to the Prince. From the nature of men and of things, no despot can set all the feelings of the human breast at defiance. He must always be content to set some bounds to his power, and exercise his caprice according to some kind of rule. Besides, no sovereign ever can by possibility interfere more than to a certain degree, and in a limited number of cases, with the happiness of his subjects. These interferences can only be in one of two ways, by bad laws or measures, and by interrupting for his personal gratification the course of the public law or policy. The former proceeding is checked by the interest which he has in the general welfare, though his ignorance, incapacity and caprice may, and often do, create incalculable mischief in this way, as we have already explained in a former treatise. The latter is necessarily confined to a comparatively small number of instances in his own immediate neighbourhood, and that of his

favourites, or the delegates of his authority; and this is true in every despotism. Thus, when the Empress Catherine II. and her parasites, literary as well as political, speak of the administration of justice taking its course, and men's rights being disposed of by the law through the judges,—they do not deny the appeal to a senate named and removed by the Crown, and an appeal even from that dependent body to the Crown itself, or the Cabinet, whose proper office is the management of the Imperial household.* Nor can they deny the dependence of all tribunals, inferior as well as superior. Suppose then that the Sovereign abstains from any direct interference with a cause in its progress, the law itself gives him a paramount influence over it in every stage, and a direct decision upon it in the last resort. What occasion is there for any interference with the course of justice? That course is such, of itself, as to secure the Sovereign against any decision contrary to his wishes, and he gains his object without the odium of seeming to seek it by making exceptions to the ordinary course of procedure. The way to try this is, to suppose some cause in which the monarch has or feels an interest personally,—some one where either he is directly concerned, or wishes one party to gain and another to be ruined. Can any one doubt how that cause will be decided, either first or last, by tribunals so constituted? He never will have even the trouble of deciding in the last resort; the dependent judges will save him that appearance of partiality. Should they hesitate, and should he think it worth his while, he is sure to give a very intelligible hint to some court in some stage of its progress upwards, and before it reaches the Cabinet. Now, it is only in such cases, which necessarily bear a small proportion to the whole, that the Sovereign ever can have any interest, or feel any desire to obstruct the course of justice. Where he is wholly unconcerned—where he knows nothing at all of the parties, or the dispute,—he never can wish to interfere.

* If it be said that in England we have an appeal in a vast class of causes, all ecclesiastical and all colonial cases, to a Council existing at the pleasure of the Crown, it must be observed that this anomaly—for it is one in our judicial system—is only rendered powerless, indeed indifferent, by the authority which Parliament has to control the executive government, and thus prevent any abuse in the administration of justice being committed as that of removing a judge of the Privy Council who should displease the Crown and appointing one more agreeable. The prerogative, too, has been much restricted of late in this particular; for almost all the members of the Judicial Committee must be judges for life. There are only two of them who hold offices of emolument during pleasure.

But wherever he has, or takes an interest, the law secures him the gratification of his wishes; and if he finds it does not, he may, and will, with impunity interrupt its course. There are bounds within which, under the most despotic government that ever was established among men, or that, from the nature of things, ever can be established, or even conceived to exist, "the rights of life, liberty, and property," of which the Empress Catherine speaks, must of necessity be secure. What we mean by security of rights is, that in all cases whatever they shall be safe, and not merely where no one has any wish to endanger them. Who would call a judge just who decided every case according to his liking or disliking of the parties where he knew them, but let the law take its course between strangers? Such an one is not only an unjust judge, but the most unjust of whom we can form any conception; and under such a judge the insecurity of men's rights would be the greatest of which we can have any distinct idea. Exactly of this kind is the insecurity of all rights under the Government of Russia; they could not well be more insecure.

It is quite true that there are bounds fixed, as we have before shown, to the excesses of arbitrary power in all such governments, and the fear of resistance being the chief, it will be more or less powerful as a check, in proportion to the civilization of the people. Peter I. and Catherine II., by encouraging the arts, and even the sciences and literature of the country, gained much in the increase of the national wealth, and of their own power, as against foreign states; but they raised an obstacle to the unlimited exercise of their power at home. When the minds of the people are cultivated, popular opinion acquires a force, which, in a state like Persia, or Turkey, it cannot possess; and even in these States it is somewhat stronger than in more barbarian communities, though inveterate usage, and fear of vengeance, and religious prejudices generally stifle it in those eastern kingdoms, even the most refined. To a certain degree the same counteracting influence exists in Russia. The Czar will not do, or suffer his viceroy and his favourites to do, what the Sultan or the Shah often practise. Nevertheless, he will occasionally show sufficiently that he is above all law, and dreads no expression of public indignation. The Empress Elizabeth reigned twenty years, and though she was peculiarly averse to shed blood, and prided herself on the mildness of her reign, as her parasites

have done, because capital punishment was never inflicted, yet she and her favourites, chiefly her lovers, who were, as is the practice in Russia, generally her ministers, sent twenty thousand persons, chiefly of some note, secretly to Siberia, without any trial whatever, or even any statement of the offences imputed to them. Her predecessor, Anne, dispatched in the same way, and also by execution, an equal number in half the time, for she reigned only ten years. Peter I. cruelly punished, even with his own hands, in the most brutal manner, many persons supposed to be convicted, possibly guilty, of offences against him; and his treatment of his first wife and his son was such as could never have been borne in any other country of Europe. The massacres of the Poles, in 1794, by Catherine II., and the more inhuman proceedings of later princes in the same unhappy country, could not, perhaps, have been attempted by the chief of any other monarchy in Europe,—certainly not by the chief of a limited monarchy. The freaks of Paul, who banished and knouted persons of every station, and even females of distinction, for not complying with his regulations about dress, when he supposed republican principles to be indicated by a disinclination to wear the old court habit, were safely displayed in Petersburg and Moscow, but could never have been exhibited even at Vienna or Berlin, much less attempted by any authority whatever in England, where sentencing an officer of rank and family to the pillory in the regular course of judicial proceedings, gave such general disgust, that the punishment itself was immediately abolished by law.* When the same Prince tried to alter the laws respecting property, and persisted in hostilities with England; and so shut up the best market for the produce of the estates of the nobles, they conspired to dethrone him, and they took away both his life and his crown. But if there were shown at this day any disposition to resist the policy or the caprices of a monarch more firm in mind, some terrible example would be made of punishment upon a large scale, and public opinion would probably be stifled at once, however much the community may have been advancing in civilization since the time of Paul.

It is a very ordinary device with the panegyrists whom the rewards bestowed among literary men by the Empress Catherine

* It was abolished in all cases but perjury, and it never since has been inflicted even for that offence.

have procured among that class, to exalt the Russian by comparing it with the Turkish Government. We have admitted the particulars in which the Sultan may be deemed practically more absolute than the Czar. They resolve themselves, as far as regards the country itself, into the greater force of public opinion in a nation considerably more advanced in improvement. But as far as the strength of established usages, and even the value of institutions existing under their sanction, goes, Turkey is better governed than Russia. Thus in the important matter of taxation, the point in which the pressure of every government bears the most constantly upon the whole people, each district has its officers, called Cadja-Bashi, chosen by the votes of all tax-payers, and acting as a kind of authority intermediate between the sovereign and the people, in all that concerns the distribution of the public burthens. This arrangement affords manifestly a very valuable protection to the people; and it might, perhaps, be imitated and applied by nations more enlightened, and whose experience in taxation is far more extensive. It must further be admitted, that the standing army is very small in proportion to the population, not above 50,000 in a population of 30,000,000; though in the Greek islands and peninsula, where the people were only half subdued, it was much more numerous. The police, too, is very little felt, and provided with but a small force—not above 150 men for the 600,000 inhabitants of the capital itself, although the place where most police force is required. We have already seen how very trifling the military force of the Chinese government is.

Such defences as we have been considering are not confined to the eulogists of arbitrary governments, the flatterers of the Peters, and the Catherines, and the Alexanders. We have the very same arguments used in extenuation or vindication of abuses in free governments—even among ourselves, under our constitutional and limited monarchy. As often as any grievous oppression is exposed, or any manifest defect in our system denounced for its pernicious effects on the liberty of the subject, we are bid to look at the general excellence of the government, and its vast superiority to many others. Here is the Russian courtier's reference to Turkey. We are also reminded how pure the administration of justice among us, generally speaking, is; and in how very small a proportion of cases anything like partiality can be

perceived upon our Bench. Here is the Russian Empress's boast that justice is almost always left to the course of the law. We shall hereafter have occasion to enter more at large into these topics; but there is a great advantage in bringing them into immediate contrast with the similar defence urged for despotic government. Such comparative views—such parallel statements—are of great use. To mark resemblances and differences—to trace diversities among like objects and similarity among unlike ones—is the very highest enjoyment of all that scientific investigation affords. But beside this, in political science, there is much practical use to be derived from such comparative views as bring various facts and situations into direct opposition and relation with each other. Light is thus thrown upon each. We understand both the Russian and the English part of the subject the better after seeing the two in juxtaposition; and we may be also warned of the dangers attending such a course of reasoning as is attempted to be introduced into our own case, where habit or partiality might blind us, by seeing how futile it is in that of the stranger, to which all our senses are awake. Now, it is manifest that no argument whatever is offered for continuing one evil, by showing that we are free from any other. No progress is made in defending an abuse at home by bidding us look to countries where much worse grievances exist. He is a sorry reasoner for continuing a rotten part in the English constitution who has no more to say than that the Russian or Turkish, or even the Austrian and Prussian governments, have many more rotten places; although, unquestionably, where the matter in discussion is some petty inconvenience, and we see much worse patiently endured by other nations whose institutions are generally good, the comparison may well inculcate patience and contentment with our own lot. So of the administration of justice—none of our judges receive bribes, or submit to being solicited by the parties in secret. But does it follow, because we have not the worst of all corruptions, bribed justice, or canvassed justice, that therefore all judges hear all causes without bias, and that consequently we may dispense with the control of juries, or let juries be packed, or suffer them to forget their duties and follow blindly the judge's direction? Or does it follow, that a law for keeping judges independent of the Crown, by preventing their translation, is absolutely superfluous? Or in France, does it follow that the

practice of soliciting judges is harmless, because bribery, a far worse corruption, is never known in our day? Again, among ourselves as well as our neighbours, no one supposes that the judge is always partial, and no one gives him very great credit for being quite pure and unbiassed in the vast majority of cases which he tries. In all these he has neither interest nor feeling to mislead him, for the parties are absolutely unknown to him, and he can have no kind of interest in the event of the cause. But where he happens to know the parties, where one is very powerful, respectable, and a favourite with the profession, or is defended by an advocate who is a favourite with the Court, is it quite certain that the judge never gives him, not indeed an unjust judgment in the main parts, but some of those little interlocutory advantages, which may operate, taken together, very materially on the result? At any rate, is it quite clear that he always makes the same unfavourable remarks on his conduct, or omits the same laudatory and respectful observations which he would in the case of a person wholly indifferent? Above all, in questions where the Church, the Crown, the great institutions of the State are parties, or are referred to, does the judge always keep his mind quite equal between power and dignity on the one side, and unprotected obscurity on the other? It is certainly not every judge now in this country who will try a cause between the Sovereign or the Bishops, or the Houses of Parliament,* or the Universities, and an unknown individual, precisely as he would both in manner and in substance between two private parties, whose names he heard for the first time when the pleadings were opened. Yet these are a very small number of questions compared with the thousands in which the judge can feel no kind of bias any way, and yet this enormous disproportion by no means destroys the force of the remarks upon the grievous effects of the partialities we have been referring to, as often as they do operate. In this respect the argument is the same in regard to the abuses in the institutions of England, of Russia, and of Turkey.

There is one check upon the conduct of the Russian sovereign perhaps more effectual than any other, although it does not exist within the bounds of his own dominions; a check much less felt in Turkey, and not felt at all in the Asiatic despotisms. He is

* Late events may truly be said to have displaced this observation. These were not foreseen in 1835, when the greater part of this treatise was written.

now entirely a European Prince, within the pale of our society as it were, both represented in foreign courts and receiving their ambassadors at his own. He carries on, then, as great and as habitual an intercourse with his neighbours as any other civilised power. This begets the necessity of looking to the public opinion of Europe as well as of Russia. What he does becomes known, and is made the subject of comment by the people of other countries, for whom his knout and his Siberian mines have no terrors. The Press and the Parliament of England—the Press and the Chambers of France—sit in judgment on his actions; the clubs and the other social meetings of the upper classes all over Europe, even in less free countries, discuss his conduct; and even if he had no fears of the impression created against him abroad spreading into his own dominions, which all his precautions never can effectually prevent, even if all apprehensions were vain, of actual resistance being roused by the sympathy of the people abroad, he will generally be disposed to avoid whatever may procure for him the contempt or the execration of those countries of Europe where the popular voice can be heard. He will not be much inclined to despise even the voice of polished society where the people's sentiments are never declared; but his dread will mainly be of public debate and inquiry. Hence the pure hatred with which such princes regard the freedom of discussion enjoyed by our writers and orators. Hence their horror of any such system as France and England enjoy being extended through Germany and Italy. Hence the machinations of those princes, originating in the Emperor Alexander's alarms for the cause of arbitrary power, and covered over with the thin veil of a pretended regard for peace—machinations leading to a plot, or royal conspiracy, which impiously assumed the name of the Holy Alliance. While France and England remain friends, no such projects will ever again be attempted; they will be as vain as they are vile.

The view which has been taken of the Russian Government and policy would be very imperfect, even with regard to the objects of this course of inquiry, were we not to consider also the conduct of Russia towards foreign nations, what is called its Foreign Policy, because this has been, as it always must more or less be, intimately connected with and constantly affected by the internal structure of the political system, and a survey of it throws a useful

light upon the true nature and tendency of that system, and its influence as well upon the happiness of those immediately subjected to it, as of all neighbouring states.

* It seems unnecessary to go farther back in the Russian history than the reign of Ivan III., who, in the latter part of the fifteenth century, threw off the Tartar yoke, and raised the Grand Duchy of Moscow to an eminent position among neighbouring states, and among the Grand Duchies into which the Russian Empire had for above 400 years been divided.† Several of those Duchies were united together about the same period by Ivan, and soon after the whole became one Grand Duchy; but during the schism the neighbouring states, particularly Lithuania, had conquered many of the western provinces; and at that time the Lithuanian Duchy extended from what is now Petersburg, in a south-easterly direction, beyond the Niemen, and to the south as far as the Black Sea. This district had suffered less from the Tartar invasion than the north-eastern provinces of Russia; the dominion of the invaders was less lasting and oppressive; and hence many of the free institutions of the Scandinavians survived the Tartar irruption. With Ivan began that course of conquest which Russia has ever since been pursuing in every quarter, extending her vast frontiers on all points, at the expense of all her neighbours; and although it must be admitted that what she at first took from Poland and Lithuania was for the most part a recovery of possessions, which in remote times had been taken by those states, yet she very soon began to carry her arms where no such pretext existed for the aggression, on the European side of the Empire, while on the Asiatic frontier the pretext never existed at all. The march of Russian conquest has been uniformly the same. War was made on some frivolous pretext, generally for the protection of some weaker power against a stronger neighbour; often for the protection of some province against the government to which it belonged. Conquests were made; a peace was concluded, and part of the conquests were given up as the price of retaining the rest; and if this was pre-

* We need scarcely say that the following sketch of Russian conquests will be difficult to follow without reference to a map.

† In 862, thirty-five years after the union of our English Heptarchy under Egbert, and eighty after France was united under Charlemagne, and fifty after he had formed the great Empire of the West, Russia (as we have seen) was first united into one kingdom under Rurick.

vented, either by the defeat of the Russian arms in another quarter, or by the interposition of neighbouring states, little or no territory was gained for the present; but a foundation being laid for future intrigues, a new war soon after was waged, and the accession of dominion followed. As even where successful operations made this delay unnecessary the whole provinces overrun were not at first retained; a few years of peace only elapsed before hostilities recommenced, and then the extension of the empire was fully effected. Sometimes it happened that, having taken too much at first, the despoiled neighbour began the war in order to recover what he had lost; and the result of the hostilities was generally to confirm the whole conquest formerly made. Thus it has generally cost her in one way or another two, if not more, wars to establish her power in each of her conquests; and they who regard the interests of humanity and of peace, which are one and the same, can derive but little consolation from the reflection that the same events which have so deeply injured the cause of national independence have also been fatal to the tranquillity and improvement of the world. The facilities which an absolute monarchy affords to conquests, and the certainty that a prince who rules over extensive dominions, with the uncontrolled power of employing their resources in gratifying his own ambition, will ever seek that enjoyment at the heavy cost both of his own subjects and of his neighbours may be inferred from almost every page of the Russian history.

Ivan III. conquered Novgorod, which had for centuries been an independent republic, in connexion with the Hanse Towns. He began the conquest of the Tartar territory after throwing off their yoke long established over Russia; this conquest was completed by his grandson, Ivan IV., who took Kasan, a state bordering on the north-east of Novgorod, and Astrakhan on the Caspian sea; but Ivan III. had already gained such a footing in Kasan as to raise his creatures repeatedly to the throne. Ivan IV. likewise began the conquest of Siberia, which his son Feodor finished, and built Tobolsk, its capital. During the fifteen years (1598—1613) which followed the extinction of the first, or Rurick dynasty, Poland and Sweden took advantage of the anarchy then prevailing in Russia, to seize, the former Novgorod and part of Ingria in the north, the latter Smolensk and other provinces in the south, and Michael Romanoff, founder of the

present dynasty, was obliged to confirm the greater part of these conquests upon the peace which he purchased at that price in 1618 and 1634; the town of Novgorod being restored to Russia, but many other towns and fortresses were retained by the Swedes. His son Alexis endeavoured to recover the Swedish conquests, and overran the provinces ceded by his father; but was obliged to restore them at the peace of Oliva in 1660, and of Kardis in 1661. But he reconquered Smolensk and the other provinces taken by Poland, and in addition to these Kiev, and a part of the Ukraine belonging to the Cossacks; another part remained to Poland, and a third was left a kind of common property between the two powers, its inhabitants holding themselves ready to serve under either against the Turks. His son Feodor, by skilfully availing himself of the weak Government of Poland, and aiding that republic against the Turks, obtained a confirmation of all his father's Polish conquests, and an extension of them; for another portion of the Ukraine and the independent Cossacks were now delivered over to Russia. Peter I., at the beginning of the 18th century, took Azoff and part of the Crimea from the Turks, and opened to Russia the navigation of the Black Sea, A.D. 1700; but being worsted in a war which this conquest soon after occasioned, he was obliged to restore it in 1711. He obtained, however, Livonia, Esthonia, Ingria, and Karelia, in 1710, by his successes over Sweden; that is, by the fatal battle of Pultowa, which Charles XII. lost through his headlong impetuosity and determination to penetrate into the country without sufficient supplies, while he governed Sweden so tyrannically that he remained abroad fighting during his whole reign, and threatened "to send his jack-boot to rule the country" when the Senate once ventured to make a representation against his ruinous policy. Of these four conquests of Peter I., two were the restoration of what had been lost a century before to Gustavus Adolphus during the Russian anarchy; but the other two, Livonia and Esthonia, together with Courland had belonged to the German order of Swordbearers, established there about the year 1200. These being unable to resist the aggressions of the Muscovites, united themselves to Poland at the beginning of the sixteenth century, when Courland was erected into a sovereign duchy under the protection of Poland, for Kettler, the last Grand Master, whose family reigned until 1711, when it became ex-

tinct. Livonia and Esthonia had been ceded to Sweden by the peace of Oliva in 1660. To Russia they never had belonged, and by these conquests she obtained an opening into the Baltic, from which she had been entirely shut out for a century, and on which she never till now had a solid or complete footing.

She might now be said to be for the first time brought into Europe: but Peter did not rest satisfied with this. By the conquest of Kamtchatka he stretched the empire to the extremity of Asia. In the time of his predecessor a Russian agent had already been established in Persia, and Peter obtained by an embassy sent thither great commercial advantages, after having an army cut off, which he had treacherously sent to Khiva, under the pretext of escorting an envoy to the Khan of the country, but with the intention of seizing on gold mines which he believed to be there.* Then, on the pretence that the Persian Government had not punished a tribe over which it had no real power, and which had committed some violence on one of his provinces, but in reality because the distracted state of Persia rendered it a prey to the first invader, he marched an army, issued a proclamation declaring his friendly designs towards the monarch, and took possession of two important provinces. The pretence on which Russia founded her occupation of these was, that a treaty had been made whereby she was to assist Persia against the Afghans, in consideration of obtaining three provinces, although the Persian Court disavowed the agent who had affected to make the bargain. In Catherine I.'s reign, soon afterwards, finding that the Court of Persia continued to disavow the treaty, Russia made one with the Afghans themselves, and obtained other Persian provinces, having been forced to abandon the ones first seized. Nadir Shah, however, now got possession of the government, and his vigorous operations obliged Russia to retire altogether from her Persian conquests. Yet it is remarkable that attempts were all along made to propagate the belief among the Russians of great conquests in that quarter. Among other stratagems was the making of silver keys to be paraded in the reports, which Peter I. always made publicly of his victories, as if these keys had been delivered to him on the taking of Derbend; although it is known that there could be no such keys of an eastern town.

* No mention whatever is made of this transaction by Voltaire.

In like manner a set of silver keys are said to have more lately been made, pretended to be those of Tabriz; they were steeped in acid to give them a look of being old, when they were to be transmitted home by the Russian General Paskewitch. It is thus that in China and the Birman Empire the people are taught to conceive extravagant notions of the power possessed in foreign states by their rulers; all Eastern despots pretending that they are the sovereigns of other sovereigns as well as of their own subjects, that every embassy to them is an act of submission, and that every foreign prince is a supplicant.

With Nadir Shah* Russia found it more expedient to make an alliance than to make war; and he was of great service to her by his mediation with the Turks, over whom he had gained signal victories (1730—1740). In the mean time the Empress Ann had completed the interference with Polish affairs, which had been attempted and in part begun as early as the reign of Alexis. She set up as a competitor for the crown Augustus, Elector of Saxony, against Stanislaus, the candidate of France, and marched an army to Warsaw in support of his, or rather of her, claims. She afterwards sent a force of 10,000 men against France to the Rhine, and forced Stanislaus to resign his claims. She also took Azoff, and overran Moldavia and part of the Crimea; but at the peace of Belgrade gave up these conquests. She overran Finland in 1742; obtained an offer of the Swedish crown for her nephew and successor Peter I., and, upon his refusing it, made the Diet give it to Adolphus Frederick, and obtained for Russia the cession of a part of Finland. Her predecessor, the Empress Ann, had in 1737 obtained from the States of Courland that Duchy for her favourite Biren, whom (as we have said) she had promoted from a humble station to be her Prime Minister. In 1740 the Regent Ann sent him to Siberia; Elizabeth upon her accession kept him there, and gave the Duchy to her favourite Augustus the Third's son, who held it till 1762, when Peter III. restored Biren, and his family held it till 1795. It was then formally given up to Russia in name, after having thus long been so in effect.

The Empress Ann had obtained nothing by the conquests she made in Moldavia and the Crimea, except the confirmation of the Russian dominion over the Zaporagua Cossacks. Elizabeth, after sending an army of 30,000 men to the Rhine, gained nothing

* See page 125.

by the peace made the year after (1748) at Aix-la-Chapelle; but this second appearance of her forces in the west of Europe greatly extended the influence of Russia. A few years later she took part in the war against Prussia, overran the northern parts of the Prussian dominions, entered Konigsberg, the old capital, and Berlin, the new one, and was near gaining from that aggression the fine province of Prussia, with its capital Konigsberg, and thus obtaining an advanced footing in Europe. Indeed this conquest was guaranteed to her by Austria, France and Sweden; and the inhabitants of the province were obliged to swear allegiance to her; so that nothing could have saved Frederick II. from a dismemberment of his kingdom but Elizabeth's death, and the accession of Peter III., who, having an enthusiastic admiration of Frederick, instantly concluded a peace with him, and restored all the conquests which his aunt had made. He also marched an army and sent a fleet against Denmark, to obtain the restitution of part of his hereditary dominions in Germany, which the Danes had long possessed. When Catherine II. dethroned him (1762) she stopped this operation, and made peace with Denmark, but obtained for her son Paul, as heir of Peter, the countries of Oldenburg and Delmenhorst, in Germany, to be erected into a Duchy for him, with a vote at the Diet.

We have in these transactions, as in so many other passages of history, a striking illustration of the general principles laid down in a former chapter, with respect to the operation of Absolute Monarchy upon the interests of nations. There was probably no kind of benefit derived to Russia from Elizabeth's war with Frederick II., but, at all events, it was impossible that the interests of the empire should both call for the bitter hostility displayed by Elizabeth, and the cordial alliance immediately formed by her successor. After some years of vigorous war with Prussia, the alliance, offensive and defensive, continued for six months, and Russia was at war with Denmark, and in league with Prussia, merely because Elizabeth was dead, and Peter III. admired Frederick II. Peter was then dethroned and put to death. His wife became Empress; and she made peace with Denmark, because she had not Peter's notions: also she gave up the Prussian alliance, and went to war with Frederick; and it is known that she gave up that war on discovering a letter which proved him to have taken her part when she was about to be maltreated by her

husband. Thus the whole affairs of the empire were regulated by the personal feelings of the three individuals who successively governed it. It is perfectly certain that no such course of capricious, inconsistent policy ever could have been pursued by the rulers of any country subject to a popular government, hardly even by the sovereigns at the head of a constitutional monarchy. It would have been difficult for Peter III. suddenly to reverse Elizabeth's policy, even had he been Emperor of Germany instead of Russia. It would have been impossible for Peter I. to have killed his guards, or treated his son as he did, had he been the head of an European monarchy. Nor could he have attempted to seize the Khiva mines under colour of sending an embassy, if his conduct had been as well watched as that of his neighbours.

Catherine II. afterwards made war against Turkey, gained the most decisive victories over the Turkish fleets, and conquered the Crimea, Moldavia, and Wallachia. These she restored by the treaty of Kainardji in 1774; but she obtained the free navigation of the Black Sea for her merchantmen; Azoff was confirmed to her; and the Crimea, the Kuban, and Budjek were declared independent of Turkey, which made them dependent upon Russia. She also obtained a tongue of land opposite the Turkish port of Otchakov; and built there, to secure her commercial footing in the Levant, the town of Cherson. In 1775 she dispersed the Zaporagua Cossacks, and seized their whole territory. They thus remained till new dangers made it expedient for Russia to reassemble them, and she formed a frontier militia of their tribes in 1796. But after the peace of Kainardji the Turks, becoming restless and uneasy at the extent of the sacrifices which they had been compelled to make in consequence of the Russian victories, opposed the Russian influence in the Crimea, where both parties chose the Princes, till Russia marched an army into the country, and established her candidate on the throne; cutting off by her fleets all communication between the Turkish party and Constantinople. The Empress Catherine soon after set aside her Khan, marched her troops into the Crimea, and caused a massacre of 30,000 persons, not in the storming of a fort, but by way of punishment for resistance, and in a manner so atrocious that the officer first ordered to perform the service disobeyed. She then took possession of the country which, together with the Kouban, was formally ceded to Russia by Turkey in 1784, the territory of

Otchakov* being confirmed to Turkey, who formally secured to the Russian flag the free navigation of all the Turkish seas. So that Russia was now become, by slow degrees, and after a struggle which had lasted above eighty years, as completely a Levant or Mediterranean Power as she had been made a Baltic and a European power by the wars and the negotiations of Peter I.

But Turkey seemed to have been too much humbled by these cessions; and three years afterwards she went to war. Russia, now in alliance with Austria, obtained many advantages, took Otchakov, overran Bessarabia and Moldavia, and captured the strong town of Ismail, where 33,000 persons were massacred in the storming of the place. This war was put an end to by the intervention of England and Prussia, which caused Austria to restore her conquests; but Russia refused, and would only make peace (at Jassy, 1792), upon being permitted to retain Otchakov, with some other valuable territory, and upon having confirmed to her all that she had gained by the former peace. She also obtained (an object always greatly valued by her as the means of future encroachment) a footing in Moldavia and Wallachia; for she stipulated in favour of those provinces with the Turk, and thus in some sort became their protector. In 1778 she had even interfered as mediatrix between Austria and Prussia, and had marched an army to the assistance of the latter power.

By various intrigues among the Calmuk Tartars, Russia had long been acquiring an overruling influence over them, and had in the earlier part of Catherine II.'s reign subdued the greater part of those tribes. But in 1771 they became so tired of the yoke that they actually fled half a million in number, and fought their way through Asia, to throw themselves on the protection of the Chinese Government, which refused to give them up; and in answer to a proposal for a commercial treaty made use of this remarkable expression,—"First learn to keep old treaties, and then it will be time enough to ask for new." The Empress Elizabeth, in 1752, built a convent among the Osset tribes in the Caucasus, under the pretence of spreading the Christian religion among them; but, in fact, to dig for the precious metals. None however were found; and the convent was destroyed by the Ossets in 1764.

Soon after the peace of Kutchuk Kainarji (1774), Catherine formed a strong line of forts between the Black Sea and the Cas-

* The final v and w in Russian are pronounced like ff.

pian, which effectually secured the submission of all the Caucasus district; and by intrigues among the princes of Georgia, Imeritia, and Mingrelia, provinces on the south of the Caucasian ridge, induced them to throw themselves on her protection, and renounce their ancient allegiance to Persia. She was soon afterwards defeated by Aga-Mohammed, (of whom we spoke when treating of Persia,)* in an attempt by a fraudulent stratagem to fortify Astrabad, and in two attempts to place on the Persian throne a younger prince of the Royal family whom she, underhand, encouraged to rebel. At the end of Catherine II.'s reign Aga-Mohammed attacked Georgia, and defeating the prince who had submitted to Russia, punished his rebellion by severe examples made in his capital, with the usual barbarity of eastern military executions.

Catherine immediately declared war on Persia: her army gained several great victories, and took possession of some of the provinces, as well as an important port in the Caspian; but on her death Paul, from personal spleen, recalled the troops and abandoned almost all the conquests made in Persia. The death of Aga-Mohammed, however, who was assassinated soon after Paul's accession, prevented Georgia from being recovered by Persia, and it still continued under the protection of Russia, which had in Catherine's time solemnly guaranteed the crown to Heraclius and his family for ever. But this did not prevent Paul from publishing in 1800 an ukase or proclamation, incorporating Georgia with the Russian empire. Alexander, having succeeded Paul, confirmed this ukase, and sent into the province an army which soon subdued Mingrelia also. This army, although Russia was then at peace with Persia, gave protection to the rebellious governor of Erivan, and defeated a Persian force sent to subdue him; but the rebel refused to deliver up his fortress to the Russians, who were obliged to retreat after endeavouring to take it by siege. Next year, however (1805), they reduced the provinces of Shekee and Karabaugh; and the war continued until the general peace in Europe, 1814, though with little additional acquisition of territory, as Russia was deeply engaged in the contest elsewhere. But in that year the treaty with Persia at Goolistan terminated the war, and secured to Russia all the conquests she had made south of the Caucasus. She thus obtained Georgia, Imeritia, Mingrelia, Derbend, Badkoo, and also the Persian part

* Page 125.

of Daghistan, Sheerwan, Shekee, Ganja, and other provinces. The boundary-line, however, was left, perhaps intentionally, so ill-defined, that disputes arose; the Russians of Georgia violated the Persian territory, and for twelve years there was a constant altercation going on between the two powers, and a constant intriguing on the part of Russia. War at length broke out at a time favourable to the latter, and her success led to a treaty in 1827, by which she obtained two more provinces, Erivan and Nachhivan, on the ground expressly stated by her that the line of the Araxes was necessary as a frontier. Yet she refused to give up Talish and Moghan, which are situated beyond that river, although the inhabitants had revolted and expelled her troops; and although those two provinces are of no other value whatever, except as they give her a footing beyond a river not fordable in some places, and thus open to her the rich province of Gheelân. She further, by the same treaty (of Turcomanchai), again excluded Persia from having a navy on the Caspian, and made her defray the whole expenses of the war. That she has the intention of extending her influence, probably her conquests, in Persia, no one can doubt. Whether this may be a step towards India is the only subject of controversy, and the alarm of many on the point appears to be premature. It is certain that a plan was proposed to Catherine II. for such an operation, at the time of her rupture with England in 1791, and, though ridiculed by her minister Potemkin and others, was anxiously entertained by herself. Such an attempt, in the state of her dominions at that time, was apparently quite impossible; for all authorities seem agreed that Russia cannot make any movement upon India even from her present position, having only the means of attacking Persia with the resources of Georgia, and India with those of Persia. It must, however, be admitted that she already occupies a territory which is not further from the north of India than it is from the seat of her own government; and the conquest of Persia, or even the entire submission of the country to her influence, would enable her to annoy, to exhaust, possibly even to shake, the British dominion in the East.

The extension of the power of Russia in Turkey in Europe was not stopped by the peace of Jassy (1792): she has since acquired Bessarabia, and rendered Moldavia and Wallachia independent of Turkey. But all her other acquisitions were in-

significant compared with the possession which she obtained of the largest part of Poland, first by the infamous partition of a portion of it in 1772, in which she had for her accomplices Prussia and Austria; next by the further despoiling of that unhappy kingdom in 1792 and 1793; and finally, by its ultimate extinction as a separate state in 1794 and 1795. The steps by which she brought this about resemble closely her proceedings in Tartary and in Persia; that is, interfering under various pretences with the internal affairs of the country; sowing, by her intrigues, the seeds of domestic dissension; espousing the side of one party, or pretender to the throne; setting up candidates of her own; lending them the help of her funds and of her troops; assisting sometimes the whole country in its quarrels with foreign states, sometimes one part of it in quarrels with another; and making herself the protector, but always with an armed force, either of a party or of the whole state—the last stage of encroachment before final conquest. The scheme of a partition appears to have been suggested to the three neighbours of Poland, by the distracted state of that country arising out of its bad government (an elective monarchy), as far back as the middle of the seventeenth century; for in 1660 they came to an agreement on the subject, which the state of their relations with the rest of Europe did not allow them to act upon. Alexis Michaelovich had before that time attempted to obtain the crown of Poland, but was unable to resist the great claims of John Sobieski, a victorious and popular general. Peter I. afterwards openly interfered in the election of Augustus III., and sent an army into the country. The defeat of Charles XII. afterwards enabled him to confirm his candidate on the throne; and the Russian influence in Poland now became firmly established. In 1764 Catherine II. set up her lover Stanislaus Poniatowski as competitor for the crown on the death of Augustus III., and, marching an army to support him, secured his election. By the treaty of alliance she guaranteed the Polish constitution in a secret article; that bad constitution which was the source of all her influence. She now declared herself the protectress of the Dissidents, or dissenters of the Protestant and Greek churches, and undertook to obtain their emancipation from the civil disabilities under which they were placed by the persecuting intolerance of the Catholic church established in Poland. In their behalf she sent an army of 40,000 men into the country, and she went

so far as actually to seize and send off to Siberia some of the most powerful chiefs of the Catholic party, both magnates and prelates, merely because they had opposed her in the Diet. She then obtained, by main force, a treaty in favour of the Dissidents; and this gave rise to a powerful confederacy of Roman Catholics, who having united as much for the purpose of freeing their country from Russian interference as for the protection of their church, sought foreign aid, and involved Catherine in a war with Turkey. The military operations of Russia proving eminently successful, the Turks in 1771 were disposed to treat for peace. At the beginning of that year Prince Henry, brother of Frederic II., was at Petersburg on a visit to the Empress, and although there is much controversy as to the party who first proposed the partition of Poland, the sounder opinion unquestionably is that Catherine then proposed it through that prince to his brother. The more common opinion assigns the proposal to Frederic, and many believe that it originated with Henry himself. Mr. Coxe, following Count Hertzberg, the Prussian minister, conceives that Frederic first proposed it to the Emperor Joseph II. when they met at Neustadt, and that they afterwards broke the matter to Catherine, bribing her by a share to acquiesce. Mr. Tooke holds that Prince Henry, being sent by his brother, concerted the measure with Catherine at Petersburg, and that Austria was then gained over to it. Rulhiere, after stating that it had been proposed as far back as 1658 by Sweden, relates that Catherine gave Prince Henry such intimations as left her own designs quite clear, and that he communicated this to Frederic after his return to Berlin. It is further to be observed that he cites his authorities: they were Kniphausen, Sandos, and Cæsar, the prince's secretaries. Segur maintains that Austria was decidedly against the scheme, and only yielded to the other two powers upon finding that France would not stand by her in resisting it. He cites for this position the authority of Cobentzel, and Kaunitz, the Austrian ministers, and Vergennes, the French minister. Where testimony is conflicting, or where it is not precise and pointed (and the evidence here partakes of both characters), our safest course is to consider the comparative probability of the different statements; and there can be no doubt that this test makes against Austria having been the proposer of a measure by which she was to gain much less than either of the other powers, and to incur very great risk

from the extension of their dominions. The same test applied to those others would certainly lead us to believe that Russia was the originator of this nefarious plot; for beside the immense advantage she was sure to derive from its success, her established influence in Poland had already made it in all but name a Russian province, while that influence could only be maintained at a large cost and with constant hazards, as long as the country retained a nominal independence and a nominal monarchy. Nor is it to be forgotten that when Voltaire, in his zeal to flatter Frederic II., and in his shameful admiration of the great crime itself, told him that he believed the reports he heard of Frederic being the author of it, "because it showed genius and had been settled in a treaty made at Potsdam," the monarch answered his letter with as flat a denial as he could decorously give on such a subject, without betraying state secrets. He said he knew no treaty that had been made either at Potsdam or at Berlin, but knew of one at Petersburg; and added, "that it is thus the public are deceived by newspapers, and made to believe that persons have the honour of acts in which they had no concern at all." In another letter, written two months before, he had praised the Empress Catherine for being engaged in restoring to Poland peace, order, and tranquillity. This plainly alludes to the partition carried into execution that same month. The conduct of Voltaire upon this subject, and his constant praises of both the empress and the king, as often as he mentions it in his letters to them, form a disgusting supplement to his base flattery of the Russian prejudices respecting Peter I., and a marked contrast to the indignation which he so often expresses against national crimes of hardly a deeper dye.*

In the whole proceedings of the powers that covered them-

* See his correspondence 11, 92, 99, 103, 134, with Frederic; and 562, 601, 618, 626, with Catherine. D'Alembert's honest spirit disdained such meanness. Voltaire's invective against France, on account of the crimes committed in Paris, on various occasions, led him to exclaim, that they made it impossible for a Frenchman ever to charge another people with barbarity. Mel. Hist. iii. 264. Voltaire has the great merits as an historian, of originality; for he is the father of that better kind of history which now justly occupies men in preference to the mere detail of battles, successions, and treaties—namely, the general narrative of the progress of nations in improvement or in decline. That he is, for the most part, a well-informed, as well as a lively writer, has been recorded by no less competent a judge than Robertson. But, perhaps, there is no more useful service rendered by Voltaire to this branch of learning than his having taught us to doubt the truth of many tales so long believed, because

selves with everlasting infamy by the partition of Poland, there is none more marked with selfish profligacy than the provisions of the treaty between Russia, Austria, and Prussia, in 1775, at Warsaw, by which they guaranteed the constitution of Poland with the liberum veto, or power of each member of the Diet to stop any measure. This had been the cause of the Polish anarchy; and as the three powers were resolved to take further advantage of the same anarchy, they provided formally that it should never cease.

Russia now become in every respect one of the most powerful European states, soon showed that she was resolved to bear a part in the quarrels as well as in the negotiations of her neighbours. Paul, being seized with a violent hatred of France, sent two armies, one of 60,000 and the other of 45,000 men, which, after gaining great victories in the north of Italy, and suffering a signal defeat in Switzerland, were recalled upon a sudden change of the Emperor's humour. He also sent 17,000 or 18,000 men soon after to invade Holland, in league with the English army. But in a short time he became as friendly to France as he had been hostile, and he forthwith quarrelled with England. He was then put to death, and his son Alexander made peace with us. Alexander afterwards went to war with France, and was defeated in many great battles; but, at the peace of Tilsit, in 1807, obtained a small portion of the Prussian part of Poland. War broke out again in 1809, and Austria, the ally of Prussia, was entirely defeated: still Russia, at the peace, obtained a part of Austrian Poland. Again she went to war with France, and, retreating before the French armies, lost her ancient capital, whither the French Emperor's obstinacy had led him to push too fast against her; he was ruined, and France was overrun by the German and Russian armies. At the peace Russia obtained a great additional share of Poland, namely, that

contained in the annals of ancient times and distant nations. The manner in which he brought the force of his powerful understanding to bear upon these vulgar errors is worthy of admiration. That he carried his scepticism into regions where it could only involve him in fatal error we have already remarked. But if the heterodox portions of his Pyrrhonisme de l'Histoire be excepted, hardly any work can be named which exhibits more bold and original thinking. These merits render his errors all the more dangerous; and we have deemed it our bounden duty to point them out freely, and to express strongly the indignation which they are fitted to excite. His life of Peter I., his correspondence with crowned heads, and his panegyrics of Louis XIV., are not certainly among his most creditable performances in any respect whatever.

part which, in 1807, had been taken from Prussia and erected into the Duchy of Warsaw, under the King of Saxony. It was now made a kingdom, and given to Alexander, with the exception of a very small part restored to Prussia. Russia also obtained the whole of Finland, which Sweden gave up in consideration of Norway being taken from Denmark and given to her. Since the peace of 1814 and 1815 has prevented any change of dominion in the West, we have seen that she has been pushing her conquests in the East, having taken a large portion of Persia, and one of the Turkish provinces, beside establishing Moldavia and Wallachia as dominions independent of Turkey, and wholly under her influence. But the ill-fated insurrections of the Poles in 1830 and 1831 ended in their yet more complete subjugation, and the nominal existence of their country as a kingdom annexed to Russia was destroyed.

The progress made in all directions by Russia since the end of the seventeenth century, that is, since the accession of Peter I., may be represented to the mind by considering the space over which she has spread herself, and the number of subjects she has gained. Her conquests from Sweden are more extensive than what remains of that ancient kingdom; they stretch through 15° of latitude. Her conquests from Turkey extend through 20° of longitude. Her conquests from Persia extend through 8° of longitude; and her conquests from Tartary through more than 35°; while of Poland she has acquired by the successive partitions a territory of between 10,000 and 11,000 square miles, with a population of between 7,000,000 and 8,000,000, beside all she had formerly obtained in Courland and the Ukraine. Her frontier has been advanced towards the west (that is, into Europe) 700 miles, on the south towards Constantinople 500 miles, towards India 1000 miles. Her subjects have increased from 15,000,000 to nearly 60,000,000, and as the greater portion of her dominions is in circumstances which tend to retard the natural progress of population, if we suppose the people of the old territory to have doubled in a century, she will appear to have now as many new subjects as inhabit the dominions which Peter succeeded to.

An important light may be thrown upon some points in the general history of nations, as well as upon the history of the Russian Empire and the progress of its people, by examining with some attention the manner of its emerging from the

barbarous state in which it was plunged long after the western countries of Europe had attained a great degree of civilization; and one of the first things that strikes us in pursuing this inquiry is the fresh instance which it affords of men's proneness to trace the whole institutions of a country from a particular period, and to regard a single individual as their founder, when in fact they have been the growth of time, the result of circumstances, and the work of several successive friends to improvement. The same error which, as we have already seen, has been committed with respect to Alfred in England and Confucius in China, is very generally to be found in the narratives and the discussions of those who treat of Russian history. They represent Peter the First as the author of all the improvements made before the time of Catherine the Second, and consider these two sovereigns as the only civilisers of the people. Nor can it be denied that there appears to be more ground in the Russian history than in any other for bestowing this kind of exclusive commendation and adopting this simple method of tracing the origin of existing institutions. Nevertheless, a closer examination of the facts shows the opinion, even here, to be incorrect, at least in the extent to which it is carried; and as we are enabled, from the recent date of the events in question to attain sufficient certainty with respect to the civilization of Russia, we may very confidently rest assured that in other instances where the facts lie concealed in the obscurity of early history, a similar conclusion ought to be drawn; that if we knew as much of Confucius and of Alfred as we do of Peter and of Catherine, we should find them only shining as greater lights among lesser, and not as alone illuminating an age involved in darkness.

It is very remarkable that Voltaire goes further than any other writer in this determination of seeing only Peter the First in the history of Russia before the Empress Catherine; and, notwithstanding his general habit of doubting all marvellous recitals and setting the probabilities of the story against the credit of the witnesses in most cases, he falls here into the same error into which he is led respecting the Chinese government. His anxiety to find a state prospering without a priesthood, indeed with very little religious belief, certainly had its effect in making him credulous of whatever was told in favour of the Chinese institutions. But his prejudice against the priests, whom Peter the

First opposed and kept under, was not the only ground of the extravagant panegyrics which he bestowed upon that sovereign, and the blindness which he showed to his faults. The flatteries and the communications of the Russian court certainly helped to betray him into the errors of which every lover of truth and of justice has a right to complain. Let us first see how the fact stands, and then advert to the misconduct of the historian, only observing at present that he repeatedly considers Russian history as beginning with Peter, and treats that sovereign as if he were the first who placed his country among the states of Europe.

Russia, as we have said, was originally formed by Rurick (862—879), a Scandinavian chief, into one great state, stretching from the North Sea to Hungary. As early as the beginning of the eleventh century she had attained a considerable degree of civilization. The neighbourhood of the southern provinces to Constantinople (the capital of the Western Empire) had caused them to acquire an intimate acquaintance with the learning most cultivated in those days; and their geographical position made them the great transit country between Persia and India on the one hand, and the centre of Europe on the other. Thus an old German chronicler of those days, Adam of Bremen, mentions Kiev on the Dnieper (so long the capital of the south-western provinces) as a rival of Constantinople; and a German bishop of the same date describes that city in 1018 as containing eight market-places, 400 churches, and as being inhabited, beside the native population, by many Greek merchants, clergy and artificers. Jaroslav the First (1020—1054) had distinguished himself as a lawgiver, and even as an encourager of learning, for he founded a school at Novgorod, and translated several Greek books into the language of his country. That he held communication with the states of Europe is also plain from the fact of his daughter being married to Henry the First of France: she was, indeed, the ancestor of all the subsequent princes of the house of Capet. But the partition of the country among a multitude of petty princes, and its subjugation by the Tartars, in 1224, effectually prevented the progress of civilization for a succession of ages, and often effaced the very vestiges of it; in like manner as we have shown that the free institutions which prevailed among the Scandinavian nations and were introduced or at least maintained by them in

Russia, yielded to the influence of their servile eastern conquerors. At the end of the fifteenth century (1476) Ivan III. completely emancipated his country from the Tartars, whose dominion had been much on the decline ever since the victory gained over them by the Grand Duke Demetrius in 1380. Ivan III. had married Sophia, the niece of the Emperor of Constantinople, and her spirit exercised much influence over him; and the political existence of Russia may properly be dated from his time. As long as tribute was paid to the Tartar horde, homage done to its savage Khans, and their ambassadors suffered to rule as viceroys, no improvement could ever be expected. That eminent prince both emancipated the country and obtained a powerful influence over the states of his former masters, whom his grandson, Ivan the Fourth, entirely subdued.

The work of which Ivan the Third had laid the foundation was continued strenuously by Ivan (IV.) Vassilovich (sometimes called John Basilides), a prince greatly in advance of his age, and who showed the most anxious desire to improve the condition of his empire; notwithstanding that his cruelty often savoured of madness. Beside the discovery of Siberia, which was first taken possession of in his reign, Russia owes to him the establishment of the first regular soldiery, the Strelitz guards, and the introduction of printing. He erected a printing press at Moscow, and brought over from England artisans skilled in different branches of handicraft. A correspondence was also established by him with the Emperor Charles the Fifth, for the purpose of obtaining manufacturers from the Low Countries. Thus, before even the accession of the house of Romanoff, the civilization of the empire appears to have been a favourite object with its princes. All the sovereigns of that family, from their first elevation to the throne, pursued the same worthy course upon which their immediate predecessors had entered. The founder of the dynasty, Michael, wisely made large sacrifices to Sweden and to Poland, in order to obtain peace for his dominions, exhausted by fifteen years of war, both civil and foreign. His son Alexis Michaelovich sent ambassadors to all the courts of Europe, except the French, which was then in alliance with Turkey, his constant enemy. The object of these missions was to form a league against the Turks, and although he did not succeed in establishing such a confederation, the communication

brought Russia into correspondence with the European powers. He renewed the legislative labours of Jaroslav the First, and reduced the laws of the empire into one code, which is still binding. It was composed by his order not only by several Boyars and Magistrates, but likewise by a number of deputies from the nobles and burghers, by whom it was signed on its publication, as well as by all the principal Clergy, Boyars, and Officers of State. He introduced manufactures of cloth and of silk into several of the provinces. He carried the prisoners whom he had taken in Poland and Lithuania into the desert parts of the empire, and there planted colonies. He established a degree of discipline in the army, which before had hardly known anything that deserved the name. He brought shipwrights from Holland, and had vessels built on the Volga,—a frigate among others. Indeed, it is to be remarked that the ship-builder who was employed by Peter the First, named Brandt, had been brought from Holland by his father Alexis. He encouraged the introduction of foreign and better troops, and Lefort, who was Peter's chief agent in his military reforms, had come to Russia with Verstin, in his father's reign. His eldest son, Feodor, continued these wise and enlightened labours: among other improvements he introduced the important one of a general police, and made several attempts to reform the manners, as well as to curb the pretensions of the Boyars, or nobles. He it was who abolished the order of precedence in the service by privilege of birth. Even the Princess Sophia, his sister, who usurped the supreme power under the name of regent or guardian, and was only prevented by force from dethroning her brother Peter, chose for her confidential minister one of the most able and enlightened men of his age, Prince Gallitzin, whom Peter banished for life upon his accession. Gallitzin, whose education and accomplishments fitted him to rule any kingdom in Europe, beside attempting other improvements, attracted all polished foreigners to Moscow, encouraged by every means an intercourse with more refined nations, and sent an embassy to Paris, the first time since the dark ages that any diplomatic connexion was formed between the two countries. When this great man was dismissed by Peter, he was sent for life to Kargopol, in the north of Russia, and allowed, as the ordinance expressed it, "out of the Czar's extreme bounty," the sum of 40 copecks a-day (about half-a-crown of our money) to live upon.

It is thus evident that the Russian sovereigns before Peter the First had been bent upon promoting the civilization of the empire, and upon introducing among their subjects those improvements which were universally adopted by the other nations of Europe. Happily, at the moment when everything was most favourable for accelerating the progress already begun, there appeared a person who to the same disposition which had prevailed among his predecessors, and a capacity equal to theirs, united a firmer purpose. That much greater progress accordingly was made under his administration than had distinguished any one previous reign is undeniable. At the same time, when we consider how much more difficult it is to begin than to continue—how far more meritorious, nay, even important, the first step is than all the strides afterwards taken—it would be unsafe to assert that more praise is due to him than to his father Alexis. There is a considerable difference in this respect between the merit of rulers who reform the institutions of their country, and that of philosophers who extend the bounds of science. In one respect the circumstances are much alike, in which great improvements of polity and important scientific discoveries are made; the great law of continuity is not broken in either case; there are always precursors, men who pave the way, not merely as pioneers to those who bring up the main body of the force, but as one after another furthering the work itself; and it is always found, when a grand step has been gained for mankind in improving the system of society, that lesser steps had previously been taken in the same direction, and that the circumstances of men were thus more or less prepared for the change, just as the period of any great revolution in philosophy, or important improvement in the arts, is always preceded by approximations to the same discovery or invention. Thus far the cases bear a close resemblance, and Peter had his forerunners on the throne, who nearly approached the founding of capitals and establishment of navies, just as Newton and Leibnitz had their predecessors, who all but found out the differential calculus. But here the analogy stops; the merit is prodigiously higher of those discoverers or inventors who actually make the great and final step than of all who led the way to the consummation; while the statesman who lives before his age, and is compelled by that very circumstance to rest satisfied with only clearing the ground on which others are to build—sowing where they must reap—deserves the highest

praise of all. Unlike the philosopher, who has no unruly instruments to work with, no fatal opposition to encounter, he has to confront numberless perils as well as difficulties, and depending for his power upon the multitudes who are his tools, he may often be the least successful where his merit is the most signal, inasmuch as he has thus outstripped the progress of the world, so that his failure, rather than his achievements, may be the just measure of his title to praise. To pass over the claims upon posterity of Boris Godoonoff, who strove to establish universities in Russia, but was obstructed by the clergy; of Alexis, who laid the foundations of ship-building on the Volga, and of the diplomatic intercourse of Russia with the other powers of Europe,—nay, to neglect the extraordinary merits of Ivan Vassilovich, who at once introduced the use of printing, and of regular troops, while every improvement is ascribed to Peter, argues great ignorance of the true nature of civil merit and the real difficulties which active virtue has to overcome in its attempts to benefit mankind. Indeed a tacit homage is paid to the truths which we are now stating in the disproportioned panegyrics bestowed upon Peter by the very persons against whom our argument is directed; for if they exalt him above his predecessors from want of due reflection upon the merits of the latter, they equally exalt him above Catherine the Second, and out of all comparison above her, only, but justly, because he went before her. In like manner, our Alfred accomplished less for legislation than Edward the First, and Numa much less at Rome than Justinian; yet there can be no doubt that the earlier lawgiver fills the largest space in the respect both of those who read the English and the Roman story.

While the merits of Peter I. are admitted, it is fit that we should both mark to what they are truly confined, and what defects at once stained his character and impaired his usefulness. He was endowed with the quality which alone can enable men to perform great actions, a resolute determination to accomplish his purpose after deliberately forming it;—hence no obstacles were suffered to turn him aside, and no temporary defeat, however often repeated, could damp his courage. He carried into his civil pursuits the same energy which enabled him to stand up against so many years of constant, and to all but his own sanguine mind, hopeless defeat in the field; and, as he gallantly said, after repeated discomfitures, that Charles XII.

would at length teach him to beat the Swedes; so he might also boast of having been schooled by Nature herself to overcome her in the struggle which he so perseveringly maintained with the circumstances of his physical position. Had he been as polished as Alexis his father, or Gallitzin his sister's minister, he would have proved a far greater benefactor to Russia; and a milder and more humane nature would have won for him an esteem which he never could command. His temper was fierce, his disposition and his manners savage, his mind unprincipled, or at least never under the control of virtue, hardly of reason, when the tempest of the passions raged. He confessed more than once that he had civilised his country, but had been unable to civilise himself; nor can a better proof be given that he is entitled to no place among the greater men who have enlightened the world. All his improvements were marked, as to his manner of effecting them, with the ungovernable impatience of his disposition, with the caprices that a despot so naturally acquires from his education, and with the narrow spirit that ignorance engenders. Yet it is certain that many of the praises which men have thoughtlessly lavished on him are grounded exactly upon his errors,—the gross errors resulting from these glaring defects. The violence which he did to nature by transferring the seat of government to a marsh, and there building Petersburg, his capital, may be pardoned for the success that has ultimately attended it, and also in consideration of the small number of maritime positions among which he had to choose. But there is not a word to be said for the manner in which this operation was hurried through at the expense of a hundred thousand lives, and by the depopulation of the remote provinces from whence he drove his hordes to perish on the gulf of Finland. He made canals and harbours, and he made wars, too, for the purpose of gaining sea coast, but he never fostered commerce by the only means by which we can really promote its growth, the security and the freedom of the traders. He affected to put down slavery in name, but he left his peasantry as servile, in fact, as he found them. He made a navy, a military marine, forgetting that its existence was immaterial without a mercantile one, which he did nothing to encourage, quite satisfied if he saw his harbours filled occasionally with foreign vessels. In this, as in all his works, he never could learn the value of natural operations, of following Nature,

and letting her work with him and for him; or perhaps he was aware of its value, but impatient of the slow pace at which alone such sure and steady progress can be made.

But his travels have been the theme of never-ending praise among men who love to wonder at strange sights; and these may be supposed an exception to his general habit of thwarting Nature instead of using her. On the contrary, they are the very worst samples of his wisdom. And when Voltaire exclaims on the "sight unheard-of in the history of the world of a young sovereign leaving his dominions, that he might learn how to govern them," he entirely forgets that the whole merit of this movement depends on the judgment that presides over it, and that the prince who travels to display a childish vanity amuses himself, and does nothing better, just as much as one who, in the more common case, runs about the world after court-balls and operas. To be sure if we are to credit the absurdities recorded, and among others, by Voltaire himself, who would have been the first to laugh at such stories told of any other prince, his foreign travel was of singular use; for it seems there was nothing from ship-building to surgery which he did not practically learn in the three or four months of his stay at Amsterdam, and three or four more in London. "There were few trades or arts, the whole details of which (says the historian) he did not learn, and he always worked at them with his own hands." He expressly mentions watchmaking and surgery, which last he learnt; "that he might be able (says Voltaire) upon occasion to be useful among his men in the field." After this strange passage we can easily understand how the same writer should not hesitate to affirm that he learnt mathematics and astronomy at the same time with all the arts and all the handicrafts in the world. Now, how revolting soever this absurdity may be, there is no doubt that much of the fame with which Peter I.'s memory is surrounded among the bulk of mankind has its foundation in his travels, and above all, in that which Voltaire has himself been so dazzled with, the emperor enrolling himself at Saardam and Deptford as a common workman under his own name, of Peter Michaelof, and handling the adze like the other labourers in the dockyard. But was there any use or any sense in all this? It surely was a far more rational thing in his father to send for Dutch carpenters, seamen, pilots, ship-builders, and encourage them to settle in Russia. We accordingly find that these

men enabled Peter, before he set out on his travels, to have a fleet, with which he actually gained a battle at sea against the Turks; and to build nine sail of the line and forty frigates and sloops of war on the Black Sea. But supposing him not to have received such means of forming a navy from his father, assuredly he never could have obtained them from the proceedings which he acted theatrically at Saardam and Deptford with so much effect on the unthinking spectators. For his only chance of creating a fleet was importing shipwrights and sailors; and certainly the display exhibited in Holland and England was sufficiently wide of that mark. Had he been resolved to make the exhibition with any real effect, surely it was the Russian ports or dockyards, and not the English and Dutch, that he should have chosen for the scene of it. Of what use for encouraging the nautical labours of boors in Muscovy and Tartary, could it be to perform these feats in the Dutch and English dockyards, before the workmen who were in fact his masters? It was much as if a man, to check loquacity at Paris, had gone to practise silence among the monks at La Trappe. As for his military studies, these confessedly had not, nor could possibly have, any the least effect in Russia. Whatever improvements he introduced were quite independent of his travels, for he only passed through Germany, and could learn nothing in his progress. It is not denied that his reign was most arbitrary, despotic, cruel, as might well be expected in a prince of ferocious temperament, and abandoned to the grossest excesses of sensual debauchery in all its branches. That after the mutiny of the Strelitz Guards he massacred them by thousands rather than made an example of them—himself in many instances being their executioner,—is as certain as that this barbarous act was perpetrated immediately after his return from his travels, as if to show how little he had learnt of refinement in foreign countries. Voltaire himself records his brutal disposition and habits, and, among other instances, mentions his "cutting off heads in a drunken debauch to show his dexterity." This, indeed, was written thirty years before the close correspondence with the Russian court, which at once gave that writer the materials for his history of Peter and the fetters that cramped him in using them.* His cruelty to his first wife, and his second marriage while she yet remained a prisoner under his barbarous treatment, are

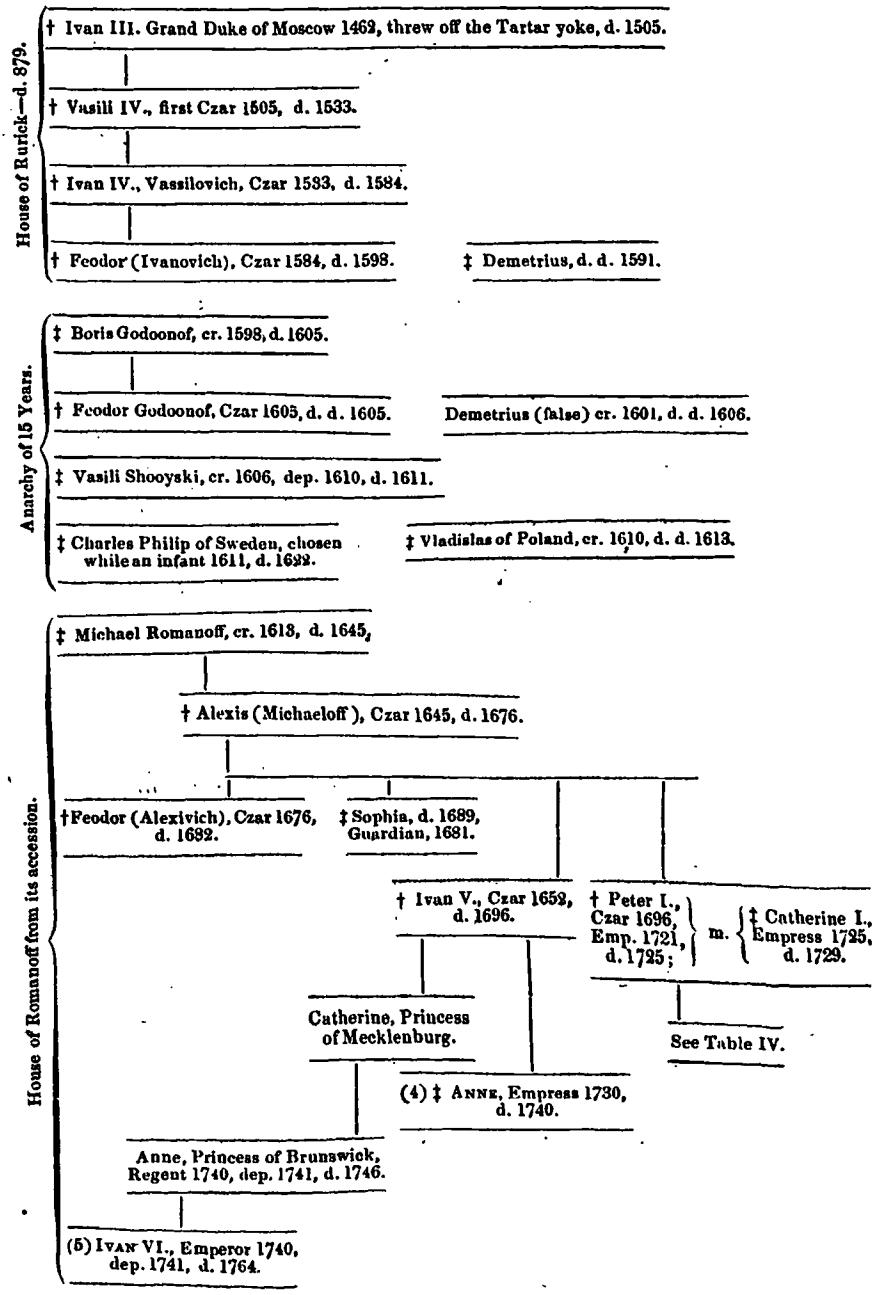
* History of Charles XII., published 1727.

not disputed. The condemnation of his son by the sentence of a corrupt and servile commission, and his death immediately after in prison, have left on this Czar's memory the stain of parricide, which Voltaire in vain seeks to wipe off in his History; forgetting, apparently, that he had charged him with poisoning the prince in his "Anecdotes" published some years before.* But that he was resolved to put him to death the courtly historian does not think of denying; on the contrary, he vindicates and even extols the act as a sacrifice of parental feelings to public duty, conceiving that the succession of a sovereign so bigoted in opposing all the Czar's reforms would have been a national misfortune. To dispute this latter position would be impossible; but it is a heavy charge against Peter, to have suffered that so important a person as the successor of an absolute monarch must needs be, should grow up ill educated and unfit to replace him; and the inevitable consequence of this grievous error was that Peter was bound to rest satisfied with disinheriting his son, and with securing by every means in his power the succession of another and a better ruler to his dominions.

It is certain that Voltaire's obsequiousness to the Court of Russia was not the only cause of the partiality with which he has treated the character of Peter, the unjustifiable attempts which he makes to palliate his crimes, and the still more unpardonable indifference which he shows to the cruelties he is obliged to record. The hatred of priestcraft, which not only made him hate all priests, but even turned him, by an error as great as any he has exposed, against all religion, inclined him to take a strong part with a sovereign whose reforms were all resisted by the clergy, and all carried in spite of them, a sovereign who systematically trampled upon that order of men, and whose principal charge against his son was, that he lay under their influence. But whatever be the origin of that historian's errors, they have misled so many that they ought to be exposed; and the mischievous tendency of the political immorality in which his book abounds, calls upon all men of sound principles to record their protest against it.

* Compare History of Peter the Great, Part II., chap. 10, where he treats with extreme contempt the supposition of poison having been employed to carry off the Czarowitz, with the "Anecdotes," where he says, "all we know for certain is, that he died suddenly, and that his father had one of the best laboratories in Europe."

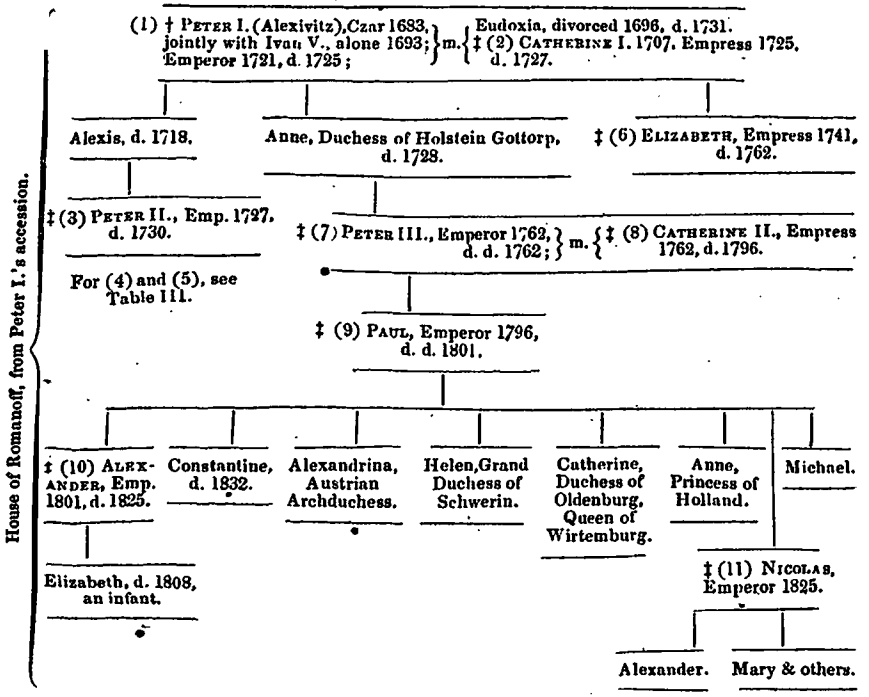
III.—TABLE OF RUSSIAN SUCCESSION, FROM THE INDEPENDENCE, 1462.


House of Rurick—d. 879.
† Ivan III. Grand Duke of Moscow 1462, threw off the Tartar yoke, d. 1505.
† Vasili IV., first Czar 1505, d. 1533.
† Ivan IV., Vassilovich, Czar 1533, d. 1584.
† Feodor (Ivanovich), Czar 1584, d. 1598.
‡ Demetrius, d. d. 1591.
Anarchy of 15 Years.
‡ Boris Godoonof, cr. 1598, d. 1605.
† Feodor Godoonof, Czar 1605, d. d. 1605.
Demetrius (false) cr. 1601, d. d. 1606.
‡ Vasili Shooyski, cr. 1606, dep. 1610, d. 1611.
‡ Charles Philip of Sweden, chosen while an infant 1611, d. 1692.
‡ Vladislas of Poland, cr. 1610, d. d. 1613.
House of Romanoff from its accession.
‡ Michael Romanoff, cr. 1613, d. 1645,
† Alexis (Michaeloff), Czar 1645, d. 1676.
†Feodor (Alexivich), Czar 1676, d. 1682.
‡ Sophia, d. 1689, Guardian, 1681.
† Ivan V., Czar 1652, d. 1696.
† Peter I., Czar 1696, Emp. 1721, d. 1725;
m.
‡ Catherine I., Empress 1725, d. 1729.
Catherine, Princess of Mecklenburg.
See Table IV.
(4) ‡ Anne, Empress 1730, d. 1740.
Anne, Princess of Brunswick, Regent 1740, dep. 1741, d. 1746.
(5) Ivan VI., Emperor 1740, dep. 1741, d. 1764.

Dep. deposed; d. died; d. d. deposed and died; m. married; cr. crowned, or raised to the throne not inheriting; † succession in the regular course; ‡ succession out of the regular course.

IV.—TABLE OF RUSSIAN SUCCESSION FROM PETER I.

NOTE.—The capitals show that the persons reigned, and the numerals on the left side show the order in which they reigned.


House of Romanoff, from Peter I.'s accession.
(1) † PETER I. (Alexivitz), Czar 1683, jointly with Ivan V., alone 1693; Emperor 1721, d. 1725;
m.
Eudoxia, divorced 1696, d. 1731.
‡ (2) CATHERINE I. 1707, Empress 1725, d. 1727.
Alexis, d. 1718.
Anne, Duchess of Holstein Gottorp, d. 1728.
‡ (6) ELIZABETH, Empress 1741, d. 1762.
‡ (3) PETER II., Emp. 1727, d. 1730.
‡ (7) PETER III., Emperor 1762, d. d. 1762;
m.
‡ (8) CATHERINE II., Empress 1762, d. 1796.
For (4) and (5), see Table III.
‡ (9) PAUL, Emperor 1796, d. d. 1801.
‡ (10) ALEXANDER, Emp. 1801, d. 1825.
Constantine, d. 1832.
Alexandrina, Austrian Archduchess.
Helen, Grand Duchess of Schwerin.
Catherine, Duchess of Oldenburg, Queen of Wirtemburg.
Anne, Princess of Holland.
Michael.
Elizabeth, d. 1808, an infant.
‡ (11) NICOLAS, Emperor 1825.
Alexander.
Mary & others.

Dep, deposed; d. died; d. d. deposed and died; m. married; cr. crowned, or raised to the throne not inheriting; † succession in the regular course; ‡ succession out of the regular course.

From Peter I. to Nicolas (100 years) there have been, including Nicolas, 10 successions, of which 1 regular, 9 irregular, of either strangers in blood, or Princes out of their turn, 5 total breaches of the order of succession, and 4 depositions by violence, including that of the Regent Anne. These depositions were all accompanied by either imprisonment, exile, or death.

From Ivan III. to Peter I. (191 years) there were, including Peter, and reckoning only the two Godunoffs and Michael Romanoff in the anarchy, 10 successions, of which 8 regular and 2 irregular, these being new dynasties.

The same observation of the more regular succession in the earlier period of the monarchy is applicable to Turkey, see Table I.

APPENDIX* TO CHAPTER VII.

GOVERNMENT OF RUSSIA.

THE following is a brief account of the organization of the Muscovite state before it was remodelled by Peter the Great, who substituted for the ancient institutions of his country others borrowed from European states, and gave to all the government departments foreign names, abolishing the national appellations by which they had been distinguished.

The clergy possessed immense wealth and influence. Its head, the Patriarch who enjoyed the titles of the Most Holy (Sviateyshee) and of the Great Lord, was second only to the Czar, who, in proof of the respect which he bore to the head of the church, was in the habit of publicly leading through the streets of Moscow, on Palm-Sunday, the ass which the patriarch rode in commemoration of our Saviour's entrance into Jerusalem. The Czar frequently dared not act without the advice of the patriarch, much less against it. The Bishops were equal in rank with the Boyars, and the minor ecclesiastical dignitaries had also a rank corresponding with that of certain civil officers. The persons and properties of the clergy were exempted from civil jurisdiction.

The nobles were composed of two classes—first, *Dvoriane*, or courtiers, so called on account of their being registered for service in the rolls of the court *(dvorovoy spisok)*; and the *Detee Boyarskie*, or Boyars' children. These minor nobles were called in this manner because they had originally composed the military bands commanded by the Boyars, whilst the *Dvoriane* or courtiers belonged to the troops depending immediately upon the sovereign. Both classes were equally obliged to serve, and could equally advance in the military as well as civil service, from which the children of the clergy, as well as burghers and peasants, were excluded by an ukase of Michael Fedorovich, 1640. The Boyars, who formed the council of the Czar, and the first class among the lay inhabitants of the country, were nominated by the Czar, but did not inherit their dignity. This dignity, which seems to have been common to several Slavonian

* By Count V. Krasinski, author of the History of the Reformation in Poland.

nations, is of great antiquity, as Nestor mentions it in the tenth century. During the period when Russia was divided into many petty principalities the Boyars enjoyed great influence and privileges, as appears from some treaties between those princes, where it is declared that the Boyars should have a right to choose their masters; and Demetrius Ivanovich, Grand Duke of Moscow, celebrated by his victory over the Tartars, 1389, recommends, in his last will to his children, *to do nothing without the consent of the Boyars.* They were employed in several courts in civil and military offices, and bore titles appropriate to those offices. The Boyars were usually chosen amongst distinguished families, but these families had no exclusive right to that distinction; and the princely families descending from the petty sovereigns of Russia had no privileges above those of the common nobles. Peter the Great, introducing new offices, nominated the eldest Boyars, or those of the first class, Actual Privy Councillors, and the younger, or those of the second class, Privy Councillors.

The second class of inhabitants was composed of merchants and burghers, subdivided into several classes; and the third class, of the peasants, who were serfs.

All the officers and magistrates, except some few municipal of inferior rank, were nominated by the Czar—the higher ranks immediately by himself, the inferior ones by a peculiar department called Razriadneey Prikaz, *i. e.* the distributive office, which kept a register of all the nobles and their employment, because each of them was obliged to serve in such a capacity as was assigned to him. The Czar listened, in the most important affairs of the state, to his grand council (Bolshaya Duma), composed of the Boyars, the boundary judges (Okolnichye), the council nobles (Dumneeye Dvoriane), and two secretaries of the council (Dumneeye Diaki). The decisions of this council were chiefly employed for unpopular measures, the blame of which the Czar wished to throw on his councillors. The most important affairs were decided by the Czar in his private closet, in the presence of a few confidential ministers, who had the title of the Near Boyars (Blijneeye). The formula with which the mandates of the Czar were accompanied, viz. the Czar has ordered, the Boyars have decreed (Gosudar povelel, Boyare prigovorili), was nothing but an empty formality. It was always employed by

a very great tyrant, Ivan Vassilovich or Basilides. The power of the Boyars to decide without the concurrence of the Czar was indeed considered so insufficient, that when the provisional government before the election of Michael Federovich granted to Prince Trubetzki an estate for his services against the enemy, it was only with the proviso that a confirmation of the grant should be obtained from the future Czar.

The foreign affairs were conducted by a separate department, called the Ambassadorial office (Posolskay Prikaz). A post-office, called the German post, carried letters from Moscow to Vilna and Riga twice a-week; but for the interior there was no such communication. A German newspaper was regularly translated into Russian for the Czar; yet, notwithstanding this means of information about the passing events of Europe, the credentials of an embassy sent in 1667 to Spain were addressed to King Philip the Fourth, who had been dead two years.

We shall not describe the violent changes introduced by Peter the First. He considered Sweden as a pattern of the best government, and despatched to that country some confidential agents in order to study the organization of the state.

The actual political organization of Russia is as follows:—The Emperor is as absolute as in the times of Ivan Vassilovich the Terrible, however this despotism may be modified by the progress of civilization. The actions of the Emperor Paul prove that, should the monarch of Russia wish to indulge himself in any freaks of tyranny even bordering on insanity, there is no power to prevent him from doing so. Several classes of inhabitants enjoy certain privileges and immunities, although it is quite superfluous to add that these liberties have no other guarantee than the pleasure of the monarch, who may abolish just as he granted them. A remarkable feature of the political organization of Russia is that no one has of right any rank unless such as he obtains by filling a civil or military office. The officers, military and naval, are divided into the following 14 classes:—

MILITARY.	NAVAL.	CIVIL.
1. Field Marshal.	General Admiral.	Chancellor.
2. Full General.	Full Admiral.	Actual Privy Councillor.
3. Lieutenant-General.	Vice-Admiral.	Privy Councillor.
4. Major General.	Rear-Admiral.	Actual Councillor of State.
5. Brigadier (a rank now abolished).	Commodore.	Councillor of State.
6. Colonel.	First Captain.	Councillor of College.
7. Lieutenant-Colonel.	Second Captain.	Councillor of the Court or Aulic.

MILITARY.	NAVAL.	CIVIL.
8. Major.	Captain-Lieutenant.	Assessor of College.
9. Captain.	Lieutenant.	Honorary Councillor.
10. Second Captain.		Secretary of College.
11.		
12. Lieutenant.	Midshipman.	Secretary of Government.
13. Under-Lieutenant.		
14. Ensign.		Registrar of College.

Many of these ranks belong to certain offices, and are lost with the loss of office.

The inhabitants of Russia are divided into the following conditions, viz. The clergy, the nobility, the merchants and burghers, the peasants.

The clergy is composed of the monastic or regular, and the secular. All the higher preferments of the church are held exclusively by the first. The secular or parish clergy, the members of which according to the discipline of the Greek church, must be married, have no higher preferment than that of a *proty yerey* or *proto papa*, who have the superintendence of a certain number of parishes. The children of the clergy generally follow the vocation of their parents; so that it is a very rare case in Russia to see a clergyman who is not descended from the clerical class. Many of these children, however, enter different branches of the public service, particularly of the civil service.

The nobility is the privileged and in some degree the ruling class of Russia. Till the time of Peter III. they were subject to the duty of personal service; but that monarch, by an ukase of the 18th February, 1762, granted them the following privileges:—The nobles may enter the service not only of their country but of foreign powers not at war with Russia.* A noble marrying a non-noblewoman raises her to his rank; but a noblewoman marrying a person of an inferior condition does not lose her privileges, although she does not communicate them either to her husband or children. A noble cannot be judged excepting by a judge belonging to his condition; and a sentence passed against him cannot be carried into execution without having been previously examined by the senate and confirmed by the Emperor himself. A noble is exempted from corporal punishment, and he cannot be prosecuted for a crime com-

* An ukase of 1831 prohibits all Russian subjects, except those who are employed on diplomatic service, from educating their children from 10 to 18 years of age abroad. All children educated in contravention to this ukase are declared incapable of holding office in Russia.

mitted by him if ten years have elapsed without proceedings. The nobility may establish every kind of manufacture and engage in commerce; but in this last case they must inscribe themselves into one of the merchants' guilds, and pay the taxes attached to it. By an ukase of 1782 all the mineral productions found on their estates are their property; and they are the almost exclusive landholders of the country. The nobles have meetings for the election of local magistrates, and they may send deputations to the Emperor, after having previously obtained a special permission to do so; they may also deliberate at those meetings on several local affairs. Only those nobles who enjoy a rank in the military or civil service are capable of voting. The votes are either personal or by a representative. The right of personal vote belongs to those who possess 100 male serfs or 3000 dessiatinis of ground.* Those who have not the required amount of property vote by a representative, provided they possess at least five male serfs or 150 dessiatinis of ground. This class of nobles elect from their collective estates one representative for every 100 serfs or 3000 dessiatinis of ground. The nobles elect the following magistrates:—

1. The chief or marshal of the nobles.
2. The presidents and assessors of the criminal and civil tribunals, which are courts of appeal from the district tribunals.
3. Judges of the conscientious court.—*Vide infra.*
4. The honorary curators of the schools.
5. The members of the commission of public victualling.
6. Deputies from each district, forming a commission for examining the pedigrees of the nobles.
7. A secretary of the above-mentioned commission.

The elective offices of the districts are—

1. A chief or marshal of the nobles.
2. The district tribunal, consisting of a chairman, two assessors, and a secretary.
3. The police magistracy, composed of the captain *Ispravnick*, *i. e.* executive, and four assessors. There are besides offices existing only in some particular governments, as the magistrates for settling the boundary questions between estates, &c.

The Nobles are divided into two classes—Hereditary, and Personal. To the first class belong all nobles who have inherited their rank or risen in service to the 8th degree. The personal

* A dessiatini is about 3 English acres.

nobles are those who have acquired by their services a rank inferior to the 8th. These last enjoy the privileges of the order without transmitting them to their children, and cannot be elected to certain offices. The titled nobility, or princes, counts, and barons, have no privilege beyond those of the other nobles. These titles are derived from Russian and foreign grants. The princes are chiefly descendants of the ancient petty princes of Russia, and some of the Lithuanian dynasty; many of Tartar descent, as the Tartar murzas or nobles who were baptised, received the title of princes. In later times many of the Georgian and Imeritian nobles of the first class, called *Tavadi*, or heads, were also received into the class of Russian princes.

The second order of the inhabitants of Russia is composed of the citizens or townsmen, *grajdane* or *gorodoveeye*. They are subdivided into many classes, viz.—

The Honorary Citizens, *pochetneeye grajdane*, who are exempt from the capitation tax, military conscription, and corporal punishment, and have the right of being elected to municipal offices, are composed of free non-nobles, who have received academical* honours, distinguished artists, heads of manufacturing establishments, &c. The privilege of honorary citizenship is possessed by some, of hereditary right; and is with others only personal. The children of the personal nobles are hereditary honorary citizens. The privileges of that order are forfeited either in consequence of a criminal sentence or by engaging in some mean trade, and entering into domestic service.

The merchants are divided into three classes or guilds. The first guild, which is obliged to pay under various denominations a yearly tax of 100*l.* has a right to engage in any commercial or manufacturing enterprise, without any limitation to the amount of the capital employed in them. The second guild, which pays an annual tax of 40*l.*, is subject to the following limitations:—A merchant of that guild cannot declare at the custom-house merchandise brought in one ship-load or land-conveyance of higher value than 2000*l.*, and his foreign trade must not exceed in the course of a year the value of 12,000*l.* Should the value of his merchandise exceed that maximum, he is obliged to pay the tax

* Academical honours entitle the individual who has obtained them to receive a corresponding rank on his entering the civil service. Thus a student who has completed a course of studies at a university is received into the civil service with the 12th rank, a candidate with the 10th, a master with the 9th, and a doctor with the 8th.

of the merchant of the first guild. The merchant of the second guild cannot enter into any contract for more than 2000*l.*, nor can he keep a banking or insurance office. Both the first and second classes enjoy an exemption from the capitation tax, military conscription, and corporal punishments. They may possess estates with serfs, provided that these are employed in manufactories. Their children enter the service on the same footing as those of the personal nobles, *i. e.* they can advance as officers after having served three years in an inferior class. The merchants of the third guild, who pay an annual tax of 10*l.*, may carry on every kind of retail trade and have manufactories, provided they employ on them no more than 32 workmen. Nobles who engage in commerce may enter one of these three guilds, according to the extent of their transactions.

Foreign merchants trading in Russia must pay the taxes of the Russian merchants, and their commerce is subject to several limitations. They may acquire real property in places where they are settled.

The burghers (*mieshchane*) by purchasing an annual licence, the price of which, according to the class of the town which they inhabit, varies from 1*l.* to 3*l.*, may engage in several kinds of retail trade, and have workshops, employing in them, beside their family, eight workmen, and by doubling the price of their license, 16 workmen. Should they wish to increase that number, they must pass into the third guild of merchants. Those who buy no licence can engage in some common trades, and have a single shop for retailing certain common goods specified under 14 heads. The burghers are not exempted from the capitation tax, military conscription, or corporal punishment.

The peasants constitute the lowest class of the inhabitants of Russia; and as they do not enjoy any personal privileges, they cannot, according to the expression of the Ukase of the 10th March, 1813, "be deprived either of honour or good name." They pay the capitation tax, and are subject to military conscription. They are allowed to engage, beside their agricultural pursuits, in handicrafts and some minor trades, as keeping inns in villages, &c. By purchasing licences they may engage in every kind of commerce, even that which is carried on by the merchants of the first guild, but they do not enjoy the personal privileges of the merchants.

The peasants of Russia are divided into crown peasants, those

of the appanage estates, serfs of landowners, and free cultivators of land; the number of these last is, however, very small.

The Crown Peasants are those who live on the estates belonging to the crown. They pay, beside the capitation tax, a rent for their grounds. Many villages are obliged to maintain post-horses for the government couriers and private passengers.

The crown peasants elect some of their authorities. Each commune (*volost*)—500 male individuals constitute a commune—elects every two years its chief, called head. Each commune sends also a deputy for the election of assessors to judge the causes arising amongst themselves or between them and other classes. These assessors may be chosen from amongst the peasants themselves or other classes. Causes between crown peasants themselves are decided by the judge of the district, with the above-mentioned assessors; but when other parties are concerned the causes are decided by the same judge, with an assessor of the peasant's class, and another of the noble's. The crown peasants may pass into the class of burghers and merchants.

The *adnodvortzee*, or single householders, are descendants of ancient military men, who received grants of land for their services. They constituted formerly a kind of minor nobility, and could possess serfs, a privilege which those who are in the actual enjoyment of it retain; but they are prohibited from making new acquisitions, except from persons belonging to their own class. They have, besides, some few other privileges over the common crown peasants.

Many estates peopled with crown peasants have been, according to an ukase of Peter the Great, ceded to particular individuals on condition of establishing manufactories; these peasants called *adscriptive* (pripisneeye) working at the manufactories on certain fixed terms. The owners of the manufactories pay all taxes due from these peasants, who are likewise exempted from military conscription.

The condition of the peasants of the appanage estates (those reserved for the maintenance of the imperial family) differs little from that of the crown peasants.

The landowners' peasants are complete slaves. Their master can inflict on them such punishment as he may choose, being forbidden to kill, to starve to death, or to maim his serf. A serf cannot contract marriage without the permission of the master. The predial serf cannot be sold without the ground to which he

is attached; but the domestic one may be sold like any other chattel. An ukase of 1808 prohibits, however, the sale of them at fairs or by auction or as substitutes for recruits. An accusation of a serf against his master, except in cases of high treason, is not admitted; and he who makes such an accusation is liable to punishment. There are however instances of *serfs* possessing immense wealth and even a great number of serfs, which they hold in the name of their master, and at his will, liable therefore to be seized if he should think fit, or if his creditors or the government should compel the sale of them. Practically, however, instances of this kind are very rare; indeed, land is by custom transmitted from father to son among the serfs, subject to the will of the lord, and to the services due for it. Sometimes, however, the master will remove his serfs from the part of his estate which they have improved and rendered valuable, and settle them upon a wild part which they must bring into cultivation. They are liable to be seized together with their possessions, to satisfy the creditors of their owners.

The free peasants, a class whose existence began under the Emperor Alexander, are subject to the capitation tax and military conscription, but are free in all other respects.

There is a great number of German colonists settled in Russia at different times. They are exempted from all taxes for ten years after their settling, and from military conscription for ever.

Having described the various conditions of the inhabitants of Russia, we must say a few words on its administration.

The principal authority is the Council of the Empire, presided over either by the monarch or by a member specially appointed. It is divided into four departments, viz.—1st, the Legislative; 2nd, the Military (which comprises also the navy); 3rd, that of Civil and Ecclesiastical affairs; and 4th, the Financial. Each of these departments has a secretary of state. These departments deliberate either separately or together, when they are called the General Assembly of the council. The affairs decided by the majority of votes are submitted to the approbation of the emperor. To the council of the empire is attached the Commission of Petitions (for examining and deciding on all petitions addressed to the emperor) and an Imperial Chancery.

The Senate, or as it is officially called, the Directing Senate (pravitelstwov-yooschchey senat), was established by an ukase of Peter the Great; dated February 22nd, 1811, and its organiza-

tion was determined by the ukases of 1772 and 1802. Its powers and duties are comprehended under the following heads:

1. It is the supreme tribunal for all judicial cases.
2. Its authority is limited only by that of the monarch.
3. It is presided over by the emperor in person.
4. The ukases of the senate are binding, like those of the emperor, who alone can prevent their execution.
5. Every imperial ukase, except such as may require secresy, must be presented to the senate by those to whom it was given.
6. It is the duty of every senator to represent to his colleagues every injury to the state and breach of the law which may come under his cognisance.

The senate is divided into eight departments, of which the 1st superintends the general affairs of the country; the 2nd, 3rd, and 4th try civil cases, and the 5th criminal ones—these are all at Petersburg; but the 6th, which also tries criminal cases, and the 7th and 8th, which try civil ones, are at Moscow. Each of these departments has a number of governments or provinces, from whose courts it hears appeals. Judgment is given by the majority of votes, which must consist of two thirds In case the required majority cannot be obtained, the cause is decided in the general assembly of the senate, where all the departments vote together. Causes are not publicly argued before the senate or before any other Russian tribunal. A statement of the case of each party is made by the secretary and communicated to the party, who signs it as correct. These statements are read in the presence of the parties to the court, which then pronounces judgment. In the ancient Polish provinces, while the Polish laws were retained, causes were publicly argued by advocates; but these laws have been recently abolished, and those of Russia introduced.

A separate department called Heroldia is attached to the senate, and its office is to examine and confirm claims to nobility and to superintend the advancement and rewards of civil officers throughout the empire.

The Synode, or as it is officially called the Most Holy Directing Synode, is the supreme administrative and judicial court for all ecclesiastical affairs of the Greek religion. Its decisions are subject to the control of the emperor, as head of the church.

The administration of the country is conducted by the following ministries:—1. Ministry of the Imperial Household; 2. Foreign Affairs; 3. Interior Affairs, or Home Department; 4. War;

5. Marine; 6. National Education, to which the ecclesiastical affairs of other professions than the Greek church are attached; 7. Finances; 8. Justice; 9. Board of Control of the Empire, which audits the accounts of all monies expended for public service; 10. Post Department; 11. The general direction of land and water communication.

The Governments or provinces are organised in the following manner:—The head of the administration of a province is the civil governor, in whose department are all the affairs of the province, except the judicial ones; but although he cannot decide judicial cases, he can compel the judges to hasten the decision of an affair. No criminal sentences can be executed without his confirmation. There is, besides, one military governor for two, three or four provinces, to whom all civil and administrative affairs are referred.

The Vice-Governor is the head of the financial department of the province, and he supplies the place of the governor in case of the absence of the latter.

The Government Procurator is appointed to observe that the laws are strictly fulfilled; and he may, in case of irregularity, suspend the judicial sentence, and report the case to the Minister of Justice. He is called, on account of his extensive powers, the Eye of the Monarch, as we may remember an officer in the Birman provinces is called the Ear.*

The tribunals or Courts of Appeal for civil and criminal cases are composed of members elected, as we have said, by the nobles.

The Conscientious Tribunal (*somestneey*) is composed of a chairman and two assessors elected by the nobles, two assessors by the merchants, and two by the peasants. This court hears those criminal cases where the crime was committed, more from a concurrence of unfortunate circumstances than from malice; consequently all crimes committed by minors and lunatics, as well as cases of witchcraft, because they are supposed to originate from folly, ignorance, and delusion, are within its jurisdiction. Parents may also apply to the court for relief from the misconduct of their children. In civil cases it endeavours to reconcile the parties who apply to it. But the most important duty of the Conscientious Tribunal is to prevent illegal imprisonment. If any individual addresses a petition to it, stating that

* Chapter IV.

he has been kept in gaol three days without being informed of the charge on which he was arrested, and without having been examined; the tribunal is obliged immediately to issue an order that the person detained shall be brought before it, with a declaration of the reasons for which he was imprisoned and not examined; and this order must be obeyed within twenty-four hours under a heavy penalty. The jurisdiction of the court does not, however, apply to cases of offence against the imperial person, high treason, murder, theft, and robbery.

The Board of Public Charities is composed of the governor of the province and some principal magistrates; its name sufficiently denotes its duties. There is a medical board in each government.

The authorities of the district have been enumerated in describing the privileges of the class of nobles, from whence these authorities are elected. We must only add that there is in every district a council called the Tutelage of the Nobles which is the trustee of all the minors of that class. It is composed of the marshal of the nobles and of the members of the judicial tribunal of the district.

The towns in Livonia and Esthonia, though not in the old Russian governments, have their separate jurisdiction, composed of the Burgomaster and Ratmans (from the German Rathmänner, council men), who are elected from the merchants and burghers of the town. There is also a council of tutelage for the minors of the burghers' class.

This is a general outline of the political organisation of Russia; and had this organisation been effective, the country would have been tolerably governed. It is needless to observe, that a despotic power will not interfere with the established order, except in political cases, as it is interested in maintaining that order for its own preservation; but other causes prevent the working of the Russian administration, which, particularly with respect to justice and police, is really wretched. One of the most mischievous causes, is the insufficient pay of magistrates of whom the highest, *i. e.* a senator, receives 160 pounds a-year. It is true that the salaries of higher public officers have been recently increased, and that many senators are men of property, but there are also many who have nothing more than their pay, and this last is the case with the generality of civil officers; so that bribery is the universal plague of the Russian administration.

CHAPTER VIII.

THE FEUDAL SYSTEM.

Decline of the Roman Empire—Its weakness and division—State of the barbarous nations—Germans, Goths, Vandals, Scythians, and their subdivisions—Alans, Huns, Burgundians, Lombards, Franks—The irruptions of these, caused by their numbers increasing beyond their resources—Irruption of the Goths in the South—Of the Franks into Gaul—Of the Huns into Italy and the North—Of the Visigoths into Spain—Of the Saxons into Britain—Of the Salian Franks into Gaul—Of the Ostrogoths into Italy—Use of tracing these events as giving rise to different Monarchies—Summary of the irruptions and settlement of the Barbarians—General principles applicable to them all—Territorial acquisition the object of all the emigrations—Territorial distribution the result—Origin of Feudal Grants—Whether originally at will—Different opinions examined—Fundamental Principle of the System—Sub-in-feudation—Allodial land—Its conversion into Feudal—Duties of Vassals—Allegiance—Homage—Fealty—Services—Their Commutation—Scutage—Relief—Heriots—Fines—Aids—Ward—Marriage—Origin of Copyholds—Villenage.

HITHERTO we have been occupied with the consideration of monarchy in its pure or absolute form.

We now proceed to examine monarchies of a description materially different; those in which the power of the sovereign is not absolute, but subjected to certain checks or limitations and exercised according to fixed laws. But to understand those restraints clearly, to obtain a distinct view of the structure as well as the history of the governments now established over the greater part of Europe, to perceive the nature and the operation of that constitution which at one time was common to all the European states, it is necessary that we should explain the origin and nature of the *Feudal System*—a plan of polity which has exercised so general, so lasting, and in some respects so unhappy, in others so salutary, an influence over government and over society in modern times. This will therefore form the subject of the present and the following treatise; nor is it easy to overestimate the importance of the inquiry.

The history of Europe—we may say of the old world—for twelve centuries, is that of its conquest by one set of rude warriors, who by degrees became refined without becoming virtuous,* and of their subjugation by other hordes still more barbarous. The

* The age of Roman virtue was before that of refinement; even the virtue was of a harsh and unamiable cast.

Romans, having gradually seized upon the whole of Italy, extended their dominion by a series of the most cruel and unjustifiable wars over every other country situated near the Mediterranean, and afterwards possessed themselves of the greater portion also of the north of Europe. An empire so unwieldy in its extent required the most vigorous central government to administer its affairs and prevent it from falling to pieces. But instead of becoming more active and more warlike, the masters of the world grew more indolent and effeminate, as their power was more extended. The government fell into the hands of tyrants whose crimes made them the disgrace of human nature, and whose incapacity made them the contempt of the world. The military spirit was necessarily allowed to decline among the people, because those tyrants were afraid to trust their subjects with arms, and relied for security on mercenary troops, chiefly foreigners. The manners of society became corrupted through luxury without acquiring the polish which it had bestowed upon Greece, and even on the Asiatic nations. The first great change which these causes produced was the removal of the seat of government into the East, where Constantinople was made the capital; and a separation soon took place between the eastern and western empire,—Rome, and afterwards Milan,* and then for many years Ravenna,† being the capital of the latter. This division, however, was not attended with any improvement in the administration of affairs; and although each branch was more easily governed and its parts were less difficult to hold together, yet the same feebleness pervaded the management of the concerns of those separate portions which had marked the government of the whole, and had led to the partition. There were, indeed, sometimes still more numerous divisions—at one time four, at another six, emperors or claimants of the empire existing together.

In the mean time, there were many tribes of barbarians whom the Romans had only partially subdued, and others with whom they had never come in contact, placed beyond the Alps. Shut out by their geographical position from all communication with the Mediterranean, and cut off by their habits of life from all intercourse either commercial or of any other kind with neighbouring nations, they had continued in a state as savage as can well be imagined consistently with the existence of any form of

* Fourth century. † Till the middle of the eighth century.

civil society. Cæsar and Tacitus have each, at the distance of a century from one another, left us an account of the least barbarous of those nations, the Germans; and the latter's description, although referring to a period when some intercourse with the Romans and the Gauls may be supposed to have mitigated the ruder features of the picture, yet presents us with the lineaments of a people little removed in civilisation above the North American Indians, and not at all above the Arabs and the Tartars of the present day. They lived in wretched hovels, very frequently under ground. Without any knowledge of the precious metals,* without towns or even villages, their whole wealth was in flocks of stunted cattle. Their agriculture must have been of a very low kind; for no man possessed a piece of ground above one season, at the end of which all the land was subject to a fresh division. They were for the most part naked, with a loose cloak thrown over them; but those in easier circumstances clothed themselves in the skins of wild beasts and other garments, made to fit the body closely; nor did the attire of the women differ materially from that of the men. Their religion was the grossest idolatry, and their divination chiefly depended on auguries drawn from the neighing and snorting of their horses. Murder and other crimes were not punished, but paid for by compensation in cattle, or by personal slavery where the party had nothing. War was their whole occupation, and when engaged in it their women brought them food, often joining in the battle, always encouraging it. In peace even hunting was generally too great an exertion for them, unless when they were pressed with hunger, and the supply of food from their cattle failed. The most warlike commonly passed their time in eating and sleeping, and the cares of tilling the ground (which could hardly be said to be cultivated) and of looking after their flocks devolved upon the women, the old, and the lame. Such is the picture which Tacitus† draws of this people

* Those tribes on the Roman frontier alone knew the use of money; the inland nations Tacitus expressly describes as only using barter.

† Tacitus is known to have written his account without any inclination to exaggerate the barbarism of the Germans: indeed, the only circumstance detracting from its authority is the disposition which it betrays to place their rude virtues in contrast with the vices of refinement under which Rome was in his day sinking. A general confirmation of his accuracy is afforded by the account which Ammianus Marcellinus, who wrote near 300 years after him, gives of the Scythian tribes in the east of Europe. It is important also to observe how little the Germans

near the Rhine and Danube, and the remoter tribes were in a state yet more barbarous. Thus of the Fenni or Fins he says, —"Their ferocity is wonderful, their poverty squalid; they have neither arms, nor houses, nor home; feeding on herbs, clothed in skins, sleeping on the ground; defending themselves only with their arrows made of sharpened bones, for iron they have none; subsisting by the chase, in which their women follow them and demand their portion of the spoil. The only shelter for their infants from the weather and the wild beasts is among the branches of the trees. Yet this life," he adds, "they deem happy compared with the cares of the house and the labours of the field; and enjoying this existence, they know not what it is to have a wish ungratified." It may be safely affirmed that no tribe in America, hardly any in Australia, has been found in a more savage condition; and it is a truly remarkable proof how far perverse ingenuity, abused learning, and national prejudices will carry able and studious men, that some German writers of later times have maintained the superiority of their rude ancestors to men of other countries and in advanced stages of society, extolling their virtues, praising their fine feelings, nay actually commending their social institutions, and discovering among them the traces of a settled condition of life.*

Of the countries inhabited by this wild and warlike race, a very small portion had ever been subdued by the Roman arms—only that part which lies on the left bank of the Rhine towards the sea, and comprises part of Belgium and Holland. The German tribes possessed or wandered over the whole terri-

seem to have been changed in their habits during this interval; at least that historian alludes to them as still in a very barbarous state, though without giving any details. See lib. xvi. xvii. The tribes to whom he there refers were the least savage, being those near the Rhine.

* M. Guizot has compared the description of the ancient Germans in Tacitus with the accounts of savage nations given by travellers, to show how accurately they resemble each other (i. 215). Robertson had with a different view made a similar comparison. Charles V., i. Note 6. It really seems as if the Germans had but one quality to distinguish them from the most barbarous tribes, their respect for women; and some of the North American Indians even in this so far resemble them as to consult their females superstitiously. It is, however, probable that some tribes were more settled in their habits than the bulk of the Germans; else we cannot account for their having serfs who paid their masters in kind for leave to live on the land. (*Tac. Mor. Germ.* c. 25.) Yet the historian does not say these were employed to work on their masters' ground; and indeed this part of his account is the subject of considerable controversy.—It is remarkable that he calls Cæsar the "highest authority" still, and makes no exception.

tory from the Rhine to the Vistula, and even further eastward, where lay the country of the Scythians and Sarmatians, now called Russia and Tartary; for on that side the limits of Germany were not well defined. It was bounded by the sea on the north, and the Danube on the south; so that it comprehended (beside what we now call Germany) Bohemia, part of Hungary and Holland, the greater part of Poland, and the countries of Denmark, Norway, Sweden, and Finland, which are by some * believed to have then formed large islands rather than a peninsula. The labour and expense of conquering so wild and barbarous a country had always deterred the Romans from a project wholly barren of either profit or fame. Covered with thick woods and cold morasses, it had only the value to its savage inhabitants of affording them places of easy defence and of scanty shelter. Augustus Cæsar, whose general principle was to preserve the boundaries of the empire as his predecessor Julius had left them, and who by his will strictly enjoined the policy of making the ocean, the Rhine, and the Danube its limits to the north, made one exception to his maxims by sending an expedition against the Germans; and his general Varus was entirely defeated, with the loss of three legions, or nearly 20,000 men. His successors for the most part followed the same policy, and only added to their dominions in the north, Britain and Vallachia (now called Moldavia and Wallachia), and for a short time Armenia and Assyria, in the east. Thus the German nations remained unsubdued and uncivilised, as entirely savage and as exclusively warlike as before the Romans passed the Alps and conquered Gaul.

The German nations to whom the descriptions of these ancient authors chiefly, indeed almost exclusively apply, were not the only barbarians in the north of Europe. It is not quite certain whether or not the Scandinavians are included in those accounts, although the probability is that they are, and we have so assumed them to be. But the Scythians and Sarmatians certainly are not. These were tribes, or, as they called themselves, *hordes*, of people living altogether in the pastoral state, and roaming over the vast plains now termed Russia and Tartary. Among

* The ancients so considered. Plin. iv. 13, viii. 15; and Swedish writers have shown, and modern geologists hold, that the Baltic has been constantly subsiding. Cluverius and others treat this as an ancient error. Geog. Un. iii. 2, 19.

the more remote of them, and bounding upon Cathay or China, were the Huns. The Goths and Vandals, who are both supposed originally to have come from Scandinavia, occupied the countries of the Baltic to the eastward of what is now called Prussia, and along the river Vistula; but their habits appear more to have resembled those of the other Germans upon whom they bordered. The Scythians were known by several subdivisions, of whom the Alani and the Venedi or Heneti afterwards became the most famous. The Goths were divided into Eastern and Western, or Ostro-Goths and Visi-Goths; and of the Vandals the most remarkable tribes were the Burgundians and Longobardi or Lombards. The name of Franks was assumed by a confederacy of the German nations inhabiting Westphalia, Hesse, Brunswick, and the countries upon the Weser and the lower Rhine.

The Scythians and the Huns differed from the more western of these barbarians chiefly in being a more entirely pastoral race. The Germans themselves had but little agriculture; the Tartar tribes had none. The former hardly could be said to know what property in land was, no man occupying his field above a year; the latter knew absolutely nothing of any such division, and all held in common the soil upon which their flocks all fed together. The former lived* almost wholly on their cattle and the produce of them, with but little vegetable food; the latter subsisted altogether upon milk and cheese, and occasionally upon the flesh of their beasts, horses as well as sheep. The former shifted about within a more narrow boundary, and lived in the rudest huts or subterraneous excavations; the latter dwelt in tents, and left one district for another as soon as their flocks had devoured its herbage, or the love of roaming about, peculiar to shepherd nations, prompted them to change their position. But in the great features of their civility and habits there was little or no variety; they were equally savage, equally careless of any fixed residence, and equally addicted to war, which formed their only real occupation, and alone excited them to activity or application. Ariovistus boasted to Julius Cæsar that his soldiers had been fourteen years without entering a house; another barbarian avowed that the only country he

* A slight difference in their agriculture may be observed between the time of Cæsar and that of Tacitus.

knew as his home was the territory his troops occupied; and Tacitus says that fighting was the only work they liked.

The warlike habits of these nations made them at all times troublesome neighbours to the Romans, especially as even during the better ages of the Republic, and long before the discipline of the army was relaxed or the habits of the people had become unwarlike, the government was less vigorous and the national strength less concentrated on the frontiers of the remote provinces, where they came in contact with the barbarians. At a very early period the Gauls who inhabited the north of Italy had overrun the Roman territories, and even sacked the city. This however appears to have been a surprise; but a vast army of the Cimbri and Teutones,* from the northern districts of Germany bordering upon the western part of the Baltic, now the Danish territory, being driven from their homes by an irruption of the sea, had marched against the Romans, gained several victories over them, greatly alarmed the city for several years, and only been overpowered by Marius with the choicest troops of the republic, after several engagements, in two of which they appear to have lost their whole army, so that their nation never recovered the blow.† The wars of Julius Cæsar in Gaul began from the movement of the Helvetic people inhabiting Switzerland, who in a body left their own territory to take possession of part of France or Gaul, and threatened to pass through the Roman province established in the south of that country, and therefore now called Provence.‡ The emigration of the Helvetians is the earliest instance recorded (if the Cimbrian invasion sixty years before, just now alluded to, be not another) of those

* Or Teutoni.

† Like many of the accounts of the Roman historians, the history of this famous campaign of Marius seems to be full of gross exaggerations. In the two battles near Aix (in Provence) and Vercelli (in the north of Italy) he is said to have killed 220,000 (by one account 340,000), and taken 150,000 prisoners, with the loss in one of the fights of less than 300 men. It must however be observed that these writers here commit their wonted inadvertence of betraying themselves by the vainglory which they mix with their contempt of the enemy; for they relate that Marius was considered as the third founder of the city (Romulus and Camillus being the other two) in consequence of these victories. One historian indeed plainly says that "it was all over with Rome had not Marius arisen in that age to save her."—*Florus*, iii. 3.

‡ The Roman province comprehended the country between a line drawn from Geneva to Narbonne on the one side, and to the sea and Alps on the other; being all Dauphiny, Avignon, and Provence, with part of Bresse and of Languedoc.

predatory expeditions of the northern nations undertaken in quest of new settlements, and instigated by their increasing numbers and want of subsistence in their own country. Cæsar defeated them, and compelled them to return home; but his progress along the countries on the Rhine brought him in collision with the German tribes, from some of whom he appears to have met with a most formidable opposition; and at first, such was their military renown, and reputation for cruelty as well as numbers, that the whole Roman army was panic-struck, and could only be rallied to their duty by the transcendent eloquence as well as valour and conduct of the extraordinary man who led them,—the most consummate warrior, perhaps the most accomplished statesman also, in ancient times.* As the power of the Romans declined, the Germans, who partook in no degree of the effeminate habits which had become so general in the empire, renewed their attacks with more success. Their numbers increased necessarily in circumstances affording no check to the progress of population; for the lowest sustenance satisfied them, and the constant division of land for the support of cattle and of such small agriculture as they had, preventing any accumulation of property, made them increase as fast as was possible in a territory so little cultivated. The means of sustenance, however, were scanty, and want of food incited the growing people to gratify their warlike propensities by pressing upon their neighbours. The history of their successive irruptions into the various provinces of the Roman empire is nearly the same. Vast bodies of the barbarians left their own country in search of more cultivated regions; and sometimes went because, for the same reason, other more powerful tribes, as the Sarmatians from Tartary, had pressed upon or displaced them. Their numbers at home have been the subject of great but not unnatural exaggeration; for the whole adult males of each tribe joined the invading force; and thus a district whose population did not exceed 200,000 or 300,000 seemed to be pouring forth 70,000 or 80,000 fighting men from much larger numbers, while in fact all who could bear arms were actively

* He was certainly one of the greatest orators too; on which we must be content to believe the critics of antiquity, his orations not having reached us; but those authorities leave no doubt. Tacitus himself, whose less pure taste must have disposed him as a critic rather to undervalue Cæsar's admirable style, records as an historian that he was among the greatest of orators (*An.* xiii. 3).

engaged in the expedition. But indeed the whole tribe, as well women and children as men, accompanied the irruption, or followed immediately in its train, and settled in the territory of which they took possession.

The first considerable operation of this description was the inroad of the Goths into the Roman provinces on the Danube, in the middle of the third century, A.D. 250. They had gradually extended themselves from the eastern parts of the Baltic to the Ukraine, and they now crossed the Danube, carrying devastation in every direction. The Emperor Decius was slain after a long struggle with them, and his army was defeated. His successor Gallus agreed to pay them a yearly tribute to save the provinces from further invasion.

This success was followed by inroads of the Franks into Gaul, where they were not at first permanently successful; but they ravaged Spain for ten or twelve years, and, after nearly destroying the whole province, left it and sat down upon Africa. The Alemanni, who were chiefly Swabians, fell upon the north of Italy with equal fury, and penetrated to the neighbourhood of Rome, from whence a momentary exertion of their ancient valour by the inhabitants repulsed them with great loss; but their next attack was met by a compromise, and the Emperor Gallienus married the daughter of their chief. Soon after, the Goths invaded Greece, which they ravaged, and continued their depredations on the east of the empire. For some time however the contest between the empire and the barbarians was maintained with success, and about the year 280 the Emperor Probus had entirely expelled them from Gaul (where the Franks had obtained possession of the greater part of the territory), beside repulsing the Vandals, who had crossed Germany in order to partake of the general plunder. He made the furnishing of large bodies of troops for the service of the empire one condition of peace,* and these were dispersed through the military parts of his dominions. For upwards of a hundred years after this time the barbarians made but little progress anywhere, and their warlike habits were more frequently displayed in contests among themselves than in attacks upon the Roman provinces. Their principal

* As our knowledge of these events is derived from the enemies of the barbarians, there may be some doubt whether the emperor was not compelled by them to take them into his pay, as a condition of their inroads being stayed.

success against the empire was upon the frontiers of Gaul, where they obtained a settlement for some years, till they were expelled with great loss by the valour and conduct of the Emperor Julian. But in the latter part of the fourth century, the Huns, having traversed the Tartar and Siberian plains, invaded the east of Europe and overran the territories of the Alans and the Goths. These last, being driven to despair by this invasion, obtained from the mercy of the Emperor Valerius, in the year 375, permission to fly across the Danube, and were allowed to settle in the Roman provinces to the number, it is supposed, of a million of people.

During the century which followed this event the history of Europe presents nothing but the successful invasions of the barbarians. The Huns who under Attila possessed in the middle of the fifth century the whole of Germany, Poland, and Russia, and had also been allowed to occupy Pannonia, now called Hungary, extended their ravages into Gaul, Italy, and Greece; but they were repulsed (A.D. 451), and in the end retained but a small portion of their conquest, lying to the north of the Danube. As however they had possessed themselves of parts, if not the whole of Scandinavia, we may hence explain the striking resemblance which travellers have remarked between the language of Finland and that of Hungary, where, though the race of the Huns was superseded by the Turkish invaders in the ninth century, their language has certainly in a great measure remained. The Vandals obtained complete possession of Africa, which they ravaged with a destructive fury, far beyond any displayed by the barbarians elsewhere, leaving hardly any monument of its former greatness and civilization. The Visigoths conquered the greater part of Spain and of Gaul. The rest of Spain was occupied by the Suevi, a German people coming from what is now called Upper Saxony. The remaining parts of Gaul were still occupied by the Romans; but all Italy came under the dominion of the Ostrogoths, while the Saxons from the countries at the mouth of the Elbe, Weser, and Rhine, being invited over about the year 450 by the Britons, to assist them against the Picts, conquered that country now abandoned by the Romans, established themselves in the island, and gradually constituted the seven kingdoms thence called by the name of Heptarchy (from the Greek words signifying seven govern-

ments). These were united into one kingdom in 827 nominally by Egbert, more completely under his grandson Alfred; and with the exception of the period (about forty years) during which the Danes established themselves in different parts of the country, at one time indeed over the whole of it, the Saxon monarchy continued until the conquest by the Normans in 1066; or 240 years, including the times of the Danish inroads.*

But towards the end of the fifth century (486), Clovis at the head of the Salian Franks defeated the Roman governor Syagrius, and subdued the Romans finally in Gaul. He overcame the Visigoths under Alaric about the beginning of the sixth century (507), and confined their power to a corner of the country between the Rhone and the Pyrenees. His children extended their dominion to Burgundy (534); so that the family of Clovis, the founder of the first or Merovingian race of French kings, possessed the whole of that noble country, and no invasion by any foreign power has ever since permanently altered the course of its affairs.

The descendants of Clovis from about 628 were almost in constant succession idiots, and during their nominal reign the officers called *Mayors of the Palace*, usurped the supreme power, and reigned in the name of the king, whom they showed to the people once or twice in the course of the year. These mayors soon obtained the chief military authority also. They were at first chosen by the troops and the more powerful individuals in the country. At length one of them, Pepin, openly usurped the throne in 752, and after obtaining great successes in war, was succeeded by his son Charlemagne, who added to his dominions a large part of Germany (including Westphalia and Lower Saxony), together with the north of Italy, and Spain from the Pyrenees to the Ebro.† He was the founder of the second or Carlovingian race of the French kings, which reigned until Hugh Capet took possession of the throne in 986, and from him in a direct line of succession came the present race of kings, with only the interruptions occasioned by the revolution of 1789.

* It is to be feared that the national vanity may have concealed somewhat of the Danish conquests. Their settlement in the North by Alfred, and their occupation of the Five Towns in the midland counties, must have arisen from the impossibility of getting rid of them.

† Charlemagne never completely subdued the north of Spain, and he had a very unquiet possession of Aquitaine, the Dukes of which owed little more than nominal allegiance to the French monarchy.

After the Ostrogoths had been established in Italy, and their kings from Odoacer downwards had reigned at Rome for nearly seventy years, they were finally defeated (553) by the generals of the Emperor Justinian, so celebrated for reducing the civil law into codes. Belisarius first reconquered Africa from the Vandals, and then the south of Italy and Rome from the Ostrogoths. Narses, a eunuch, but gifted with an extraordinary genius both for government and for war, completed the victory of Belisarius, and expelled Totila, the Gothic king who had retaken Rome. The liberation of Italy, however, or its restoration to the empire, was not of long duration. The Lombards under Alboin, joined by numerous bodies of Sarmatians, Bulgarians, Bavarians, and even Saxons, invaded it, and, before the year 570, had reduced the greater part of it to subjection. Ravenna, and the dependencies of Rome, Venice, and Naples, remained to the eastern empire; but these were rather posts held in a country the rest of which the Lombards possessed. About the middle of the eighth century they had extended their dominion to Ravenna and Rome itself, when Pepin the French king subdued them, and gave over the provinces of Ancona and Romagna to the Bishop of Rome. His son Charlemagne added the north of Italy, now called Lombardy, to his vast dominions, as we have already observed. In 774 the Lombard kingdom was at an end in Italy, and the Franks were masters of Rome.

The Visigoths who occupied Spain, excepting that part of it comprehending Gallicia and the provinces on the northern coast, which the Suevi held, remained masters of the Peninsula until the beginning of the eighth century, when the Saracens obtained a footing in the country, and in 712 almost entirely overthrew the Gothic power. These Moorish conquerors retained possession of the centre and south of Spain, and almost all the rest was more or less under their dominion; but the Gothic princes never were entirely expelled: they established themselves in the Asturias and Leon, and they continued to hold a footing there for four hundred years in a perpetual conflict, attended with various fortune. They at length entirely subdued the Mahometans about the middle of the thirteenth century; and 200 years afterwards they wholly drove them out of the country where they had long lived in the occupations of peasants, artisans, and gardeners—inoffensive and useful citizens, wholly deprived of power.

We have traced the inroads of the barbarous nations and their

final settlement in the Roman empire thus minutely, for two reasons. First, the inquiry has enabled us to observe the origin and foundation of the monarchies into which Europe is at present divided; and it has also brought us to the source from which their various constitutions, differing in many particulars, but agreeing in their general aspect, and still more in their fundamental principles, have been all derived. Secondly, without examining the origin and following the progress of those systems of polity, it is impossible to have any accurate notion of the constitutions, or any valuable knowledge of the histories, of the different European states. A mere narrative of the succession of kings, their actions, their wars, and their fortunes, hardly deserves the name of history, whose office it is to record for the instruction of the present race of men, the circumstances that have led to the present state of things, and the remote causes of the good or the evil which flows from existing institutions. As the subject in the examination of which we have been engaged is somewhat complicated, from the variety and yet the resemblance of the events, and from the obscurity of the details in many particulars, let us, before proceeding further, shortly recapitulate the origin of the different kingdoms which rose out of the ruins of the Empire.

The Goths coming originally in small numbers from Scandinavia, now Sweden and Norway, settled in the eastern parts of the Baltic towards the mouth of the Vistula, spread to the southward, and occupied the Ukraine. They consisted of two nations, the Western or Visigoths, and the Eastern or Ostrogoths. The former invaded Gaul and part of Spain, were defeated by Clovis and reduced to a narrow territory in the south of France, but extended their possessions in Spain, where the Suevi, coming from Upper Saxony, also settled.—The Franks, a confederacy of the German nations known to the Romans by the names of Catti, Cherusci, and Chauci, and inhabiting the countries of Hesse, Brunswick, and Lunenberg, conquered the Visigoths in Gaul, and under Clovis gave the origin and the name to modern France.—The Burgundians, a Vandal tribe, who came originally, like the Goths, from Scandinavia, but had settled near the Oder and to the westward of the Gothic territories on the Baltic, overran the part of France which now bears their name, but were reduced to subjection by the Franks under Clovis's sons.—The Ostrogoths overran Italy, but were finally

subdued by the Lombards, another tribe of Vandals.—The Heruli, also Vandals, and the Venedi, a Scandinavian tribe, settled on the north of the Adriatic gulph in the islands which gave rise to the republic of Venice.—The Saxons from the north-west of Germany took possession of the south of Great Britain, to which one of their tribes, the Angles, gave the name it now bears.—The Huns, who had twelve centuries before Christ overrun and subdued all the north of Asia, and had kept China in a kind of dependence two hundred years before our era, being defeated everywhere by the Sienpi, another Tartar and shepherd tribe, were in the first century driven westward towards Europe, and then conquering the Alans, who dwelt between the Volga and Tanais (or Don), spread themselves so wide that at the end of the fourth century their dominion extended from the Danube to the Baltic. They gave their name to Hungary, but were afterwards defeated there, first by the Avares, and then by the Turks, or Turcomans, themselves a Tartar tribe.—The Sclavonians appear to have been always settled in Russia, Lithuania, and Poland, of the population of which they form the basis, as they also form a portion of the Bohemian people, the rest being Gothic.

Now regarding these great emigrations there are several things not to be overlooked.—

1. When any one tribe made its inroads into a province of the Empire it was always accompanied by others who had either been subdued on the march towards the Roman frontier, or who had taken the same opportunity of sharing in the spoil. Hence, the force invading on any point always consisted principally of one people, but was in part composed of others also.

2. It is equally certain that one tribe of barbarians generally pushed on another; and it often happened that they who seized upon a Roman province had themselves been driven from their own settlements by more numerous and more needy hordes. The expeditions of the Huns strongly illustrate this position. But whether occasioned by the loss of their own territory, or by the rapid increase of their numbers, which was the most regularly acting cause of their expeditions, the observation most important to be made is that

3. All those inroads had one object; not revenging some quarrel or adding some province to the invader's former dominions, but obtaining a country where they might settle, and

leaving their own either to a new possessor, or in a barren, exhausted, and depopulated state.

4. When they took possession of a new territory they did not extirpate the inhabitants, but subdued them, and settled among them, leaving to them a portion of the land, and taking a portion for themselves. Thus in Gaul, both the Burgundians and Visigoths, when they severally invaded, took two-thirds, and left the Romans the rest, while the Franks appear generally to have taken only half, and the Lombards in Italy were satisfied with a third.

From all these considerations we are enabled to deduce with tolerable correctness the foundations of the Feudal System which was established over all the countries thus overrun.

When a leader settled in any district which he had invaded, his first object was to retain possession of his conquest; and as the hopes of plunder alone had attracted him, and the promise of a share had alone enabled him to collect and lead on his troops, the distribution of it among these troops, and the apportionment of his own part, were the things principally to be regarded. Plunder of course in this case meant land, the only property which could satisfy the crowd; and the land was therefore to be divided. How was this to be effected so as at once to gratify the followers according to the compact on which the expedition had been undertaken, and to secure the tribe under its chief against other rival tribes, and particularly against the revolt of the conquered people, or the efforts of their distant rulers to expel the invaders? No way seemed so effectual as that which was also naturally suggested by the indispensable operation of dividing the land. As this partition must at all events be made in some way, a way might be chosen to make it so that the double purpose should be answered of giving the warriors what they had come to fight for, and of securing them in the possession of their booty. The land might be given not absolutely, but only on certain conditions; namely, on condition of military service; and it is extremely improbable that any other should at first have been annexed to the grant: for the warriors were free at home, and wholly unused to any regular restraint, being the comrades rather than the subjects of their chiefs; and it is not likely that any greater subordination should have been imposed or any more rigorous service exacted, after

the dangers and successes of an enterprise in which all were equal sharers, had given them a new settlement. What degree of property however was conferred originally, in what way the possessions were held, or in other words, what was the tenure in the lands thus distributed, is matter of some doubt, and has given rise to much controversy. Those writers who have treated of the history of the governments which we are examining, but in times somewhat later, and when the civil constitution of the state had become more regular and settled, have differed materially upon the history of the earlier stages of the national polity. But it is evident that the question must be decided by what was the state of property at the first distribution, as this would continue for a considerable time to be the governing rule. The great majority of authors have considered that all grants were originally during the pleasure of the chief or donor, and that for some ages the land was resumable by him at his pleasure, and not merely upon a forfeiture of the condition originally annexed to the gift. Of this opinion are Montesquieu, Mably, Hume, and Robertson, the last of whom regards the point as of equal clearness and certainty with any proposition of an historical or antiquarian kind. Some, however, and especially Mr. Hallam and M. Guizot, are not satisfied with the evidence upon which this position rests; and it must be admitted that the proofs are not very conclusive. But one consideration seems to be very important: the idea of a permanent property in the soil is not naturally of early growth in any society; and the German nations plainly had it very imperfectly, if at all, in their own country. For Cæsar expressly informs us, in the short but admirable description of the Germans which we have already alluded to, that they applied little to agriculture, living chiefly on milk, cheese, and flesh; that no one had a defined portion of land or any certain bounds to his possessions, but that the chiefs every year made a new division, and would not allow any one to retain his possession for a longer period (*De Bell. Gal.*, VI. 22.). The lapse of a hundred years appears to have made no change in this particular; for Tacitus says that the land in his time was occupied by the whole community turn and turn about; that a lot being given to a number of persons in the same neighbourhood, it was shared among them according to the importance or rank

of each, and that this distribution was made yearly. (*De Mor. Ger.*, cap. 26.) Now from the nature of the thing no occupation of land can well be for less than a year, even where it is held at the mere pleasure of the real owner; for none can be supposed to take the trouble of sowing it unless he is to reap what it produces; nor if it is in pasture, as was chiefly the case with the German land, can any one have a piece of ground for a shorter time than the cutting of one year's crop, or gathering what he sows for the fodder of beasts in winter. Therefore we may assume that the Germans in their own country had no distinct ideas of several property in land, but that each owned what he occupied for the season.*. Consequently it does not seem very probable that upon removing into newly acquired settlements they should have suddenly acquired such fixed notions of property as at once to place the whole community under the restraint incident to a permanent distribution of the land of the state. Their leaders were very unlikely to allow this, even had the people begun to think of it. We may therefore venture to affirm that, excepting those portions which the chief leaders shared by lot with the commander of the expedition, the first grants of land to the new settlers were during pleasure. If this did not amount to a holding from year to year (which however it probably did) the step was in all likelihood made almost immediately of giving the grantee his portion to hold for one year, and be resumable by the chief at the end of that period; and the next step was the granting for life. Sometimes the grant was for the life of the grantor; more generally for that of the grantee. At what period the transition was made from the grant resumable either at pleasure or at the grantee's death, to the property continuing hereditary in the family of the grantee, we have no means of accurately ascertaining in any country, though an ordinance of Charles the Bald in 877 seems to declare lands thus granted hereditary in France;†

* If we suppose two kinds of tribe (with M. Guizot), one stationary, the other wandering, even though the former may have had (contrary, however, to the authority of Cæsar and Tacitus) more defined notions of real property, still it was the latter who chiefly formed the invading bodies.

† Notwithstanding this declaration, the idea of the right being merely personal seems long to have prevailed; and for a century at least *confirmations* were usually applied for on the death of the holder. At the end of the tenth century, when the inheritable nature of fiefs was firmly established, no such confirmations are to be met with.

but it was only in 1024 that they were declared hereditary in Germany by Conrad II. But as late as the end of the sixth century the lands which had been parcelled out returned to the prince in most of the European states upon the grantee's death, and were only continued to the family as a matter of favour, and by a new gift, although undoubtedly instances even at this time occurred of hereditary tenure.*

Now the grant of land by a chief to his followers, upon condition of military service, was called a fief, feud, or feo (a word said to be compounded of *feo*, wages, and *od*, possession or land), in Latin *beneficium*, and it constituted the grantee a feudatory, or vassal of the chief or superior, to whom he owed service in consideration of the land. The land constituted, as it were, his wages; he was to do work for the wages, and that work was his service to the owner or grantor of the land, the master who paid him those wages. This is the corner-stone of the feudal system; it is the root from which almost all its peculiarities spring.

Attempts have been made to deduce the feudal relation from other sources. It has been said that the traces of it are to be found in the customs of the Germans; but unless the companions of the chief can be likened to vassals, to whom they really bear a very faint resemblance, this idea is groundless: the payment in land was wanting.† Others have imagined that this feudal

* The arguments of Mr. Hallam, chap. ii. part 1, and of M. Guizot, Civ. Fran. tom. iii. leç. 2, appear to cast much doubt upon the greater part of the authorities to which Montesquieu refers, without however establishing the position that fiefs were originally for life, and without getting rid of the distinct authority of the Libri Feudorum, otherwise than by remarking that it is comparatively of modern date, that is, of the twelfth century. M. Guizot considers that he has established his position chiefly by dwelling upon the improbability of the warriors resting satisfied with a precarious tenure, and he then cites many authorities; but these refer to periods considerably later than the first inroad. Clotaire I. was in the latter part of the sixth, and Clotaire II. in the seventh century. The treaty of Andelot was in 587; and besides, it proves too much, for it would show the fief to be then hereditary, which it certainly was not. The Capitulary of Charles the Bald in 844, beside being subject to the same observation, professes to legislate for the future—"personne *desormais* ne sera depouillé," &c. The fact that there were instances of grants for life at the early period, and of hereditary grants at the subsequent time when most fiefs were held for life, proves nothing, because the transition from the one state to the other was unquestionably made gradually. M. Guizot's statements appear more satisfactorily to prove that there was no passing through the intermediate stage of a tenancy for years.—The work of M. Guizot is one of great value, and deserves deeply to be studied, with Mr. Hallam's, by those who would examine this interesting subject.

† *Commendation*, or receiving protection from a powerful person in consideration of a stipulated payment, *salvamentum*, was a relic of the ancient German connexion between the chief and his companions, and was a relation merely of a personal kind.

relation is to be traced in the Roman connexion of patrons and clients—the practice of men of consequence and power taking under their protection inferior persons, who rendered in return such services as were within their means, often paying money, and not unfrequently bequeathing their property. But no real resemblance exists between the two cases; for in the Roman custom there is no holding of land as the consideration for allegiance and service. The only case which resembles the feudal tenure in the early history of Europe is to be found in the reign of Alexander Severus, at the beginning of the third century: and it arose from circumstances the very same with those out of which the feudal relation grew and became general two centuries later. That emperor settled some barbarous tribes along his frontier upon the Danube, and hired them by grants of land made to them, on the express condition of serving him in his wars, undertaken for his defence against the neighbouring barbarians. We have already traced a resemblance to the feudal tenures in the Birman empire (ch. iv.). It is to be found also in Hindostan and modern Turkey (ch. x.).

That the practice of making military service a condition of holding the lands distributed should have become universal among the invaders of the empire, needs not surprise us, if we consider both the common origin and similar habits of all those nations, and the identity of the circumstances in which they all emigrated, conquered, and settled. The customs and habits of the Germans are represented as nearly the same throughout, although they were divided into a great number of nations, and differed somewhat in their degree of civilization. Thus the Suiones, who lived on the Baltic, and had considerable dealings with shipping and trade, were possessed of some wealth, and had a more regular government than the other tribes; though Robertson (*Charles V., vol. i., note* 6) has not shown his wonted accuracy when he states that Tacitus represents them to be so much improved, that they had begun to be corrupted. He only says, that their leaders would not suffer them to have possession of their arms

It was known very early, before the second irruption of the Franks, and is justly regarded by Mr. Hallam as personal—c. 11, p. i. But M. Guizot, Civ. Fran. tom. iii. p. 265, though he admits the relation to have been among the Germans only personal, appears to regard it as feudal in France. Elsewhere (Civ. Eur. p. 64) he considers the feudal relation as similar to that of the chief and his companions; and he states that no personal relation ever existed between men in ancient times, forgetting that of patron and client.

in time of peace, but kept them in a public magazine, lest arming them might lead to excesses. (*De Mor. Ger.* 44.) But the warlike habits of the people, their dislike of peaceful occupations, their fidelity to their chiefs in war, their free spirit in peace, their ignorance of several property in land—all these things were common to the whole German nations; and although the Goths and Vandals chiefly settled in the south, leaving the purely German races to occupy France and Britain, yet it is certain that these invaders are comprehended under Tacitus's description of the Germans, even by name; that they had long been settled on the southern shores of the Baltic; that the only tribes of whom he doubts whether they should not rather be regarded as Sarmatians than as Germans, are the Venedi, Peucini, and Fenni, whom, after all, he ranks with the Germans, on account of their having fixed and not wandering habitations. But even if we were to consider the Goths as differing from the other Germans while settled at home between the Oder and the Vistula, as their migrations were not made suddenly from those settlements into Italy and Spain, we may conclude that they first became mixed with the more western and southern Germans by previous movements; and there can be no doubt that all their expeditions were attended by numerous bodies of those always admitted to be German tribes, and most plainly referred to by Tacitus and by Cæsar. That the manners and habits, then, of the barbarians who overran the empire and founded the modern monarchies of Europe, were originally such as those celebrated authors describe, we may assume for an incontrovertible proposition.* It is equally clear, from the sketch which we have given of their inroads and conquests, that the two circumstances, of poverty or want of room, and warlike habits, in

* The Huns and Alans never settled permanently in any part of the empire, unless where they were mingled with tribes of German origin, except it be in Hungary. Their manners were more barbarous than any of the Germans described by Tacitus, even than the Fenni. As late as the end of the fourth century Ammianus Marcellinus describes them as wholly unacquainted with agriculture, living entirely in a pastoral state, and never erecting so much as a hut. His account of the Huns makes them hardly human, even in appearance. They look, he says, like animals on two legs, or the posts which in building bridges are fashioned to some remote likeness of the human form. They seem not to have known the use of fire except for the purposes of destruction. They feed, he says, on roots and on flesh half raw, being only sodden between their thighs and the backs of their horses in galloping (lib. xxxi.). The Alans had become somewhat less savage from their intercourse with the Gothic tribes, but only in their temper; for their habits seem to have been as rude. (Ibid.)

which those expeditions originated, and which gave rise to their settlements, were the same throughout, as were also the customs and institutions of the people whom they subdued, and among whom they established themselves. Consequently there is every reason why we should expect to find the same policy regulating their proceedings, and the same kind of political arrangements made by them in all the countries where they acquired a footing. The explanation afforded by this view of their invasions, and not any interest attached to the annals of savage hordes, made it fit that we should enter into the foregoing details.

When a chief, then, established himself, and parcelled out the lands seized, the leading companions of his expedition shared, and by lot, some of the lands taken, and were only bound to defend the community, as they had been at home, by a kind of voluntary allegiance, for their own sakes; while the other followers, of an inferior description, each according to his military rank, or the favour he enjoyed, became possessed of a share, of which he had the use or enjoyment, and for which he rendered service in the field and in defence of the territory acquired. He also owed allegiance to the chief, who was the real owner of his land; and he attended his court, where the disputes were settled which arose among the occupiers or tenants. We find, in Tacitus's account, that the administration of justice was, among the Germans, in the chief's hand, with the sanction of a council; though Cæsar informs us that in Gaul the priests or Druids alone exercised that important office. Again, the power of the chief in peace was extremely limited; and it was only in war that he obtained a kind of dictatorship as necessary for the common safety. General assemblies were held, at which the more important affairs of the community were discussed; these were attended by all who could bear arms, and they appeared in full armour. Lesser matters were treated in smaller meetings of the leading men, who, with the chief, seem to have conducted the ordinary affairs of the government. Among these the chief or prince was only the most important of their body—the first among his peers or equals, who were the other chiefs, the most important men in the tribe. Indeed, each nation consisted of many tribes; there being no one who ruled the whole, unless when on occasion of any warlike enterprise, they chose some person to lead them with dictatorial power. Justice in each district was administered

by its own chief, who, together with the other men of influence, ruled in his neighbourhood alone. Each chief had a trusty band of chosen companions, who vied with each other in devotion to him wherever war was carried on. The same companions were about his person in peace, and intrusted with his missions to other tribes. Their reward seems to have consisted only in enjoying his favour, in receiving occasional presents, and in partaking of the rude hospitality of his house. The Romans called them *comites*, or companions; the Gauls called them *ambacti*, or whatever word it may be that Cæsar latinises thus; the Germans probably called them *antrustions*, this being the name of the greater vassals soon after the irruption. The chiefs vied with each other in the number of their companions; this formed the measure of their importance. One king of the Alemanni, a tribe mixed of many German nations, but chiefly Swabian, is said to have had two hundred. Accordingly, when an expedition against any Roman province proved successful, the larger share of the lands was naturally given to those persons, and they formed the principal officers about the prince's court. When feuds became hereditary, and the favour of succeeding princes had increased the grants, the comites or counts possessing large tracts exercised great influence, and even direct power, in each state. For the acquisition of feuds when they became hereditary in their families, perhaps even while they were only for life, was attended with another operation. As the practice of renting land was unknown, whoever had more land given him than he could cultivate, whether a count or any inferior follower, was obliged to make a similar grant to other persons, in return for which they were to do him service. It seems most probable that this practice, which is called *sub-feudation*, or *sub-in-feudation*, began while the feud was only for life; because, had it been the entire property, alienation was most likely to have been introduced as naturally incident to an inheritable title; while a person who only holds for his own life cannot easily think of doing more than making with some one else, for part of his property, the same kind of bargain which he has made with the lord of the soil for the whole. Thus, every one who had a considerable feudal estate given him, retained part for himself, and parcelled out the rest among inferiors, who rendered him the same service as he rendered to the chief or prince—following him in war when he accompanied the prince, assisting

at his feasts when at home, and attending when he transacted such part of the civil business of his district as devolved upon him. The smaller proprietors, or feudatories of the prince, had of course proportionably few inferior vassals, or sub-feudatories; but the counts, and other more important feudatories, had the same courts, and the same administration of justice, as the prince himself, who did not in early times exercise any jurisdiction over the whole territory, but only over the portion which he had reserved to himself, and in which he was the chief over his immediate vassals, as the other chiefs were over theirs, each on his own estate. Originally there was no limit to sub-in-feudation; and the feudatory of a crown vassal might have other feudatories under him, and those others under them, and so on. Afterwards it was restricted. In England, by a law made in the reign of Edward I. (at the end of the thirteenth century), whoever granted any land could only do it so that his grantee should be the vassal of his (the feudatory's) over-lord. In Scotland no such restraint was ever introduced.

From this distribution of land among the crown's vassals, and by them among their dependents, arose the great power of the feudal lords or barons; for the allegiance of their feudatories to them was in theory as rigorous as their own to the sovereign, and in practice it was much more effectual. The count or baron passed his whole time at home, surrounded by his followers, who also were the suitors or members of his courts where justice was administered, while the more distinguished among them were his companions in the chase and at his feasts; and these in their turn had inferiors similarly dependent upon them. Occasionally the great lord might go to the sovereign's court, and in his wars he accompanied his armies; but the constant occupation of his life was such as to maintain his power over his own vassals. But before examining more nearly the kind of service which the feudal tenure imposed, we must consider how far it extended over the countries in which it was established.

A considerable portion of the land in each country overrun by the barbarians remained the property of the former inhabitants, and some part of it was also granted out, without any direct obligation of service, though with an understanding that the owner should join in the defence of the community, when attacked. This land obtained the name of *Allodial*, supposed to come from the Saxon word *lod* or *lot*, as the lands were distributed by lot;

and it is certainly possible that when such divisions were made among the counts, or other more distinguished followers of any chief, these may have obtained them without any condition of service; and that those only to whom the chief gave parts of his own share may have become his vassals. Indeed, the probability is that what the followers obtained by lot, and in their right of sharing the conquest, they held free from all direct obligation, and that at first the positive condition of service was only imposed in respect of what each favourite or count received out of the chief's portion, and in respect of what each inferior person received from the portion of those who shared by lot.* Be this as it may, however, the land thus held free was termed Allodial; and the extent of it in every country underwent constant diminution. This was principally owing to the disordered state of society, and the insecurity arising from thence, and from foreign invasion; for, as the occupiers of it had incurred no obligation of service, so they had no title to protection; and the violence exercised by powerful individuals, and the danger arising from the inroads of the enemy, made it necessary for the weak to seek protection from the powerful. Hence, many allodial proprietors surrendered their lands into the hands of some powerful proprietor, to receive them back as feuds, with the condition of allegiance and service imposed upon them, but also with the duty of protecting them cast upon the lord. Even those lords themselves, owners of larger allotments, were frequently reduced by similar apprehensions to become vassals of the Crown, in respect of lands formerly held by them as allodial. Different circumstances hastened or retarded this progress of infeudation in different countries. In the north of France and in Italy allodial property had ceased to be known, with few exceptions, as early as the eighth century. In Languedoc, Roussillon, and Catalonia, the whole property was allodial as late as the middle of the eleventh, and in the Low Countries it was generally so even in the thirteenth century. In the South of France a considerable portion remained always allodial (*franc-alleu*). In England and Scotland the whole land had become feudalised, with the exception of that of the Orkney Islands, at least as early as the tenth century; while in Norway

* It should seem that the obligation to serve imposed on allodial owners of three *mansi* (about 20 acres) and upwards was of late introduction; but the history of this is very obscure.

the feudal tenures were never introduced at all, and the *udal* right, the common tenure in Orkney, which was peopled by the Danes and Norwegians, is still, as it always has been, of an allodial nature.

When the feudal relation had become established it extended itself to various kinds of property not in their nature the subject of such a conditional holding. Thus rents, tolls, pensions, tithes, offices, were made the subject of feudal grant, and given on condition of military service. Even perquisites of the priests for saying mass being sometimes seized by the barons, they held them of the church on the condition of giving their service in protecting it, and then shared them by sub-in-feudation among their followers. But some lands, and generally property in towns, were in England held for fixed payments or for services not military; and this was called *socage*, or *free*, and *certain* service.*

Having now traced the establishment of the feudal relation of lord and vassal, we are next to examine the rights and duties which it constituted, and the important effects which it produced upon the structure of the government and the condition of society. No correct notion can be gained of the different governments of Europe, and above all of the rise of the aristocracy, and the manner in which the ideas of men have been moulded in modern times, and the characters of nations formed, without an attentive consideration of that which was the source, and is still the governing principle, of almost all the moral and political phenomena that we see around us. If the governments of the East have afforded us matter of reflection upon the tendencies of monarchy and its abuse, despotism, those of the West are in every period of their history the equally copious source of observation upon the effects of aristocracy, and of the oligarchy into which it always tends to degenerate.

The first duty of the vassal to the lord was allegiance. He did homage by uncovering his head, and ungirding his sword, and kneeling before the lord, in whose hands he placed his own. In this attitude he solemnly promised to become *his man—homme*—(whence the word *homage*); and to serve him faithfully with life and limb in return for the land held of him. The cere-

* Litt., s. 119, derives it from *soc*, plough; but this seems given up. Everything certain, even holding by a fixed escuage, might be socage. *Soc* is privilege; so holding by fealty without service was socage.

mony generally* was ended by his kissing the lord's cheek, and the lord kissing his mouth; and a remnant of this is retained in our coronation, the peers all kneeling before the king uncovered, and then kissing his cheek. The bishops still do homage to him for their temporal possessions, which return to the Crown on the see being vacant, and are granted again to the successor. The homage, chiefly confined to military tenure, was performed to the lord in person. The oath of fidelity or *fealty*, which belonged to all tenures, followed; but the lord might receive it by proxy. The *investiture* of the vassal in the land was that for which he owed allegiance, and the lord either gave actual possession on the spot, or delivered it over by symbols, as of turf for a field, stone for a house, and so forth. This accordingly was the original mode of feudal conveyance; and in England although a method has long been introduced to supersede the necessity of personal delivery, it yet exists so far that a good title may still be made by a deed, called a *feoffment* (from the word feud, or fee); and livery of seisin; that is, delivery of possession. In Scotland it is still the only conveyance by which lands pass; and the difference, in this particular, between the laws of the two countries is only, that in England the symbol is less precisely defined, anything being sufficient if intended as a sign or token of delivering possession, whereas in Scotland certain symbols are prescribed; and that in England no memorandum in writing needs be made of the possession having been given, whereas in Scotland this is a necessary part of the title.†

Allegiance comprehended the duty of attempting nothing against the lord, disclosing all information that might affect him, and not divulging his counsel when intrusted by him. The vassal was also bound to side with him in war, and be a hostage for him if captured. But military service, to which was added *suit service* or attendance on the lord's court, was the most important duty, and in most cases, perhaps at first in all, was the foundation of the tenure.

Allegiance was at all times due and continued always the same. Military service was originally co-extensive, and was

* In Spain the vassal kissed the lord's hand. From Littleton, sec. 85, only mentioning the lord's kissing the vassal, the double kiss would seem not to have been universal.

† In France the giving possession was by the lord or his agent, as it still is in Scotland: it was called *infeodation* in the case of noble fiefs; *ensaisinement* in that of others.

due whensoever the lord was attacked. Whether, if he waged offensive war, the same absolute right existed to the vassal's service, may be questioned. Cæsar tells us that the ancient Germans volunteered to accompany their chief on an expedition which he announced at a general assembly, and that having once promised, it was infamy not to perform. Probably, then, the barbarians, when they settled and granted out lands in feudal tenure, held assemblies where the expedition was resolved upon, and the lord had a right to service while it lasted. But by degrees this came to be regulated and limited, and the vassals became bound to serve only a given number of days, each according to the extent of his possession. Thus, for a knight's fee (or land of the value of twenty pounds a year), 40 days were due; which in France was extended to 60 days. But in the course of time the extent of service came to be specified in the deed or charter by which the land was granted. Men of 60, women, priests, and public functionaries, were allowed to find substitutes. Sometimes the service was limited to the lord's territory; sometimes it was general and unrestricted. The non-performance incurred a forfeiture of the land to the lord, because it was a breach of the condition upon which the grant had been made. But afterwards the practice grew up of commuting the service for a fine, which was called *escuage*,* and proved a source of revenue to the chief.

But beside the service in war, other rights were possessed by the lord, some of them connected with the land, and arising from its having been originally his own altogether, and never wholly given to the vassal; others acquired by usurpation upon the vassal. As the land was at one time granted for life, when the lord gave it at a vassal's death to his heir, he exacted something in consideration of the favour. This was called a *relief*, as the land had fallen into the lord's hands, and was to be relieved out of them by payment of the fine; or it had fallen down, as it were, and was to be raised up again.† The amount to be paid was probably at first quite arbitrary—as much as the lord chose to ask, and the vassal could afford to pay. Afterwards it became

* Blackstone derives *escuage* or *scutage* (B. 11, c. 6) from the money (*scutum* or *escú*) generally used; but it seems more reasonable to suppose that the pecuniary payment took the name of the service for which it was a commutation—*servitium scuti*, scutage or escuage (see Litt. s. 95, and Co. Litt. 68, b). This composition for personal service appears to have been the origin of all taxes upon real property.

† The former is the continental derivation, the latter that of our lawyers. In some provinces of France other names were used, as *reprise, pleit, acapte*.

fixed by custom, and even by law. The charter of Henry I. of England enacted that reliefs in future should be reasonable, and Magna Charta fixed them at what was supposed to be one-fourth of the yearly real value. In some countries relief was also due on the death of the lord; and we have the remains of this as well as the ordinary relief in many of our manors in the north of England, where copyholders pay a fine both on the death of the lord and of the tenant. It is most probable that this kind of relief on the lord's death originated in the remoter period when the feud was granted wholly at pleasure, or at least only during the grantor's life; and when he died, the heir, not being bound to continue the grant during the vassal's life, required a consideration for renewing his ancestor's grant. *Heriots*,* still known in some English manors, are probably another remnant of the temporary nature of the feud out of which reliefs arose.† They are due on the tenant's decease, and consist of his best chattel. A valuable race-horse was some years ago claimed in Surrey as a heriot. The same custom prevailed in Italy and France as early as the eleventh century; with us, at least two centuries before. The custom with regard to reliefs differed in different countries. Thus, in most parts of France they were not due at all on direct, but only on collateral, succession. This, however, may have been a limitation of late introduction, when the right of inheritance was established. Originally they were probably due on all descents alike.

The right to alienate the feud was of comparatively late introduction, for the fealty and service of the vassal were properly personal, and could not be transferred. Indeed, the original relation of lord and tenant was so strict, that neither party could dissolve it at his pleasure. The lord's consent was necessary to a change of tenant; the tenant's to a change of lord; expressed by a form called his *attornment*, which continued to be required in England until the 18th century. At a much earlier period, however, the lord had become accustomed, in all feudal states, to permit alienation by the tenant upon payment of a sum of money, and the person to whom the transfer was made became the lord's vassal, and did homage upon

* Lord Coke derives the word from the Saxon for the "*Lord's best*" (Co. Litt. 185, b). Heriots were required by the laws of Canute, which in this respect were probably only declaratory.

† If, as Spelman holds, they were unconnected with succession, how were they due only on the tenant's death? They *may* be remnants of villenage, as some think.

admission as tenant. The remains of this are plainly visible in our copyhold and customary tenements, where a fine is payable upon alienation. It was originally, like relief, arbitrary—whatever the lord demanded—and the name of arbitrary fine is retained in many English manors, as those of the north; but custom and the decisions of the courts have at length fixed it at not more than two years' real value. In many of those manors this is payable upon the death of the lord and of the tenant, and on alienation also. In these, then, we perceive the remains of both relief and fine, and through them are reminded of the primitive state of feudal property, namely, a grant of land to be holden at the will of the lord.*

It must be added, however, that copyholds are here adverted to by way of illustration merely; for they are, in fact, rather the remains of another kind of grant, feudal also in its origin, at least originating in feudal times—a grant at will by the lord to an inferior kind of followers—than of the general grants by lords to vassals of a higher description. They are the remains of certain of the sub-in-feudation grants already mentioned—those grants which placed the inferior vassals in the same relation to the feudatory in which he stood towards the chief. We shall afterwards trace the origin of copyholds more particularly.

When feuds became hereditary, they descended either according to the order of succession pointed out in the grant, or according to some general law of succession prevailing in the state at large, or confined to the particular district. It was not till late in the history of most nations that the right to dispose of property by will was introduced, and it may be asserted that while the feudal system remained in full force, no such power was enjoyed generally in any part of Europe.† When it was given anywhere it at first extended only to a part of the land, the rest being still required to go in a particular line pointed out by the original terms of the grant, or the general law of the state, or the local law of the district. In many parts of Europe the rule was that all the sons—in some places all the children—should

* In some countries the lord had a right of redemption within a given time on paying the price and expenses of any sale made by the vassal. This in France was called *retrait feodal; retrait lignager* being the similar right of heirs of entail.

† Before the Conquest lands in England passed by will; that having been the custom of the Anglo-Saxons and Danes, as of the Romans, though not of the Germans.

succeed equally. This succession of all the males appears to have been the law of descent among the Anglo-Saxons, probably among the Britons also;* and we have the remains of it in the custom which still prevails in Kent. In boroughs the younger son generally succeeded from the circumstance of his remaining longest with the father, and being the most helpless at his decease, or having, if grown up, assisted him the most in conducting his trade. This custom is called *borough English*; it is called *gavel-kind* where all inherit alike. But while the feudal system remained entire, the death of the vassal without heirs, or without such heirs as were designated in the grant, caused the fief to return, fall, or *escheat*, as it was called, to the lord. The word signifies a casualty, or falling in consequence of an accident. But want of heirs was not the only cause of forfeiture. If the vassal committed any act inconsistent with his fealty the fief returned to the lord, and refinements were introduced, by which many things were held to be constructive rebellion, or contempt of the lord's authority. Thus encroaching upon his share of the land, whether on the waste not parcelled out, or on the lord's private property, that of which he had the beneficial ownership as well as the feudal dominion or superiority was termed *purpresture* or *pourprision*, and forfeited the feud to the lord; though in England this term has for ages been confined to encroachments upon the crown's rights. Thus, too, disclaiming the lord's right and the tenure under him† was a cause of forfeiture.‡ So in general alienating without licence, and even making certain alterations upon the form and disposition of the

* The custom of gavel-kind existed in Ireland till it was put down by a decision of the judges, 3 Jac. I., and in North Wales till the stat. 34 Hen. VIII. It differed from the English custom in several particulars, chiefly in allowing no dower, and letting bastards succeed equally with legitimate children. Davis, 49.

† In England *disclaimer*; in Scotland, *diclamation*; in France, *desaveu*.

‡ In the French law the term *escheat*, *escars*, or *escas*, was applied to personal property which in certain cases became forfeited. There was, however, in the provinces of Bresse and Bugey, an escheat, called *echoite*, of the feud to the lord for want of heirs. *Retour* (reversion) was the term generally used for this; and *commise*, for forfeiture through misconduct of the tenant. In England *escheat* is properly confined to the falling of the feud to the lord, in the two cases of want of heirs and corruption of blood through the felony of the tenant, while *forfeiture* is the term used where the king becomes entitled on account of the tenant's treason (a right not feudal), or the lord on account of any other misconduct than felony. In Scotland escheat is used in a somewhat more restricted sense than in England, though coming from the same original state of the law.

land, were causes of forfeiture; and of these we find the remains in many copyholds of a strict custom at the present day.

But beside these rights and perquisites which arose out of the relation between the lord of the soil and him who had only the enjoyment, and that limited, of its fruits, there were others which grew out of the vassal's allegiance, and his dependence upon the superior. Of these, *aids* were the chief. They were sums, like a tax or contribution, levied upon all the vassals to defray expenses of the lord on certain extraordinary occasions—such as a pilgrimage to the Holy Land; the costs of his own relief to an over lord; the making his eldest son a knight; the portioning his eldest daughter; and his ransom, if taken in battle. These three last are alone permitted by Magna Charta; and by the laws of France and other continental monarchies, *ward* or *wardship* and *marriage* were not so universally established as the aids of which we have just been speaking. But in England they existed, and to an oppressive extent; as they also did in Germany and in Normandy. On the ground of training the infant vassal to arms after his father's death, and also because he lost his service during minority, the lord took possession of his estate until he came of age; and an abuse of a vexatious kind soon crept in—the lord bestowing the guardianship and possession of the land upon strangers from favour or for money. This was called in our law *guardianship in chivalry*, and was only abolished, first, during the commonwealth, and then by a perpetual act at the restoration, after having been the source of extreme oppression down to that late period. *Marriage* (*maritagium*) was the right to marry a ward, and receive a price for the match; or, if the ward refused, to receive as much from the estate as any party would have given for the match. The custom was still more rigorous in Jerusalem, where the Crusaders introduced the feudal system; for there the maiden or widow, in order that there might never be wanting a male vassal to perform service, was compelled to take one of three husbands presented to her by the lord, unless she was sixty years old, and resolved to die single. In some parts of Germany and France, and in Scotland till the eleventh century, it is certain that a custom more outrageous still prevailed, the lord having a right to enjoy the person of the vassal's bride. This, in France, was called *droit du seigneur*: and in Scotland the fine paid for it was termed

woman's mark;* but it is doubtful whether it existed in respect of the vassals who held by military service, or was only incident to other tenures of a baser kind. Of these it is now necessary to speak.

We have hitherto confined our attention to those persons who, being soldiers, companions in arms of the chief, free men and warriors, shared the fruits of the conquests made, and obtained land either freely and unconditionally, or on the condition of certain allegiance and service—the holders of the former or allodial land gradually becoming holders by feudal tenure, but still being free men, and holding by military service. There existed, however, in all the provinces overrun by the northern nations, a twofold division of the inhabitants—some being freemen, and some being slaves. In all parts of the Roman Empire the legal right and the practice was established of holding persons in absolute slavery; and that the barbarians found the people in this state is plain, among other things, from the laws of the Burgundians, which mention their having, on their settlement in France, seized two-thirds of the land, and one-third of the slaves or serfs.

But the northern nations had also slavery as a part of their own customs, although their domestic slaves were in an easy condition, and did not much differ in their circumstances from the other poorer classes of the community. Captives made in war; persons who sold themselves, or were sold by their parents from poverty; convicts condemned to pay fines, and made slaves on default; gamesters who staked their personal liberty upon the issue of play, to which the Germans were passionately addicted —all these classes increased the number of slaves among those rude nations. Upon conquering any district they sometimes reduced all the people to slavery, except such as could ransom themselves. Subsequently, revolt or other acts of violence extended the numbers of the slaves. Another reason operated in the same direction. The violence of the early feudal times, and the consequent dangers in which poor men were placed, made it highly desirable to obtain protection from the more powerful members of the community. Personal protections, as we have seen, were obtained from these lords, called *commendations*, resembling the

* *Mercheta mulierum.* This custom is not supposed to have existed anywhere in England, except in the northern counties while they were subject to Scotland.

patronage of the Romans, or the relation in which the upper classes stood towards their *clients*. For this protection, payments in money were made, called *salvamenta*, or *salvages*, and many who could pay nothing became serfs or slaves to such as would not be content with mere allegiance, or with occasional service. Allodial proprietors used at first to obtain *commendations*, as they had no lord to protect them, until by degrees the tenure of their land became feudal, as we have already seen. Men who had no land were deprived of this resource, and very often became serfs. Many, too, in those superstitious ages parted with their liberty to monasteries and churches in return for their prayers and masses, together with some small share of their temporal possessions. It thus happened that, as all the land became feudal, and the maxim of the law arose "*Nulle terre sans seigneur*"—"*no land without a lord*"—so almost every one was either a vassal in respect of his land, or a serf in respect of his person, and the common people came to be almost universally in a state of slavery.*

* The subject of slavery among the barbarians, and also in the countries overrun by them, has given rise to much discussion; and there are some points connected with it which are by no means satisfactorily settled. Tacitus, *e. g.*, describes the slave as required to furnish so much grain, cattle, or clothes, and nothing beyond (servus *hactenus* paret. Mor. Ger., c. 25); and then he says that the wives and children do all the household work. This and the passage (c. 15) where agriculture as well as household affairs is said to be left to the women, the old, and the infirm, makes it not very easy to suppose, as some commentators have done, that there were two classes of slaves, one employed in household work, and the other living as serfs, and cultivating the ground, on payment of a fixed rent in kind. It is, however, certain that in describing the requisition the historian says it is made on the slave "ut colono," referring to the Roman cultivator; consequently there must have been some class of men in a servile or half-servile condition, who were suffered to occupy the land from time to time allotted to their masters, on condition of furnishing certain supplies. Brotier has discussed the subject, as connected with Tacitus; but Heineccius has entered much more fully into the whole subject of slavery in his Antiq. Germ. ii. 9.

In citing Tacitus and Cæsar, Robertson has, with his accustomed sagacity, warned us to be on our guard as to the difference which may be found both among different nations of Germany and at different periods (ch. v. vol. i. n. 6). He has accurately confined himself, too, in citing Ammianus Marcellinus, to the Huns and Alans, of whom and other Scythian tribes the writer gives, in his xxxi. book, a full description. M. Guizot refers to Ammianus as stating that little or no change had taken place in the German manners since Tacitus (Civ. Fran. i. 205). Now, certainly, though there is in the xv., xvi., xvii., and xviii. books occasional mention made of the German nations, especially in the account of Julian's campaigns—and we may infer, from his manner of speaking, that those nations were still in a very uncivilised state—there is nothing like "descriptions simples et breves" of their manners; nor a general account of any but the Scythian nations.

But land in those countries constituted the whole, or nearly the whole, wealth of the community. It was in some sort too the currency in which services of every kind were paid. A proprietor, desiring to retain the services of any one, gave him a rent issuing out of his land; and this constituted him a vassal; for it was by a refinement of the feudal law reckoned (not *feudum*, but) *quasi feudum*—a kind of fief, or an improper fief—and was dealt with as a real and proper fief—a fee or feud of land. In order to obtain inferior services or to support serfs, they were settled on small portions of land in the neighbourhood of the lord's residence, and these allotments were entirely held at will by the serfs, whom the lord could at any moment dispossess. Thus to obtain land needy freemen became serfs—another source of domestic slavery. But this kind of contract had very important consequences; for as the servitude of these voluntary slaves only could last as long as they held the land, they and their children came no longer to be regarded as tenants-at-will, and liable to be dispossessed; and so the slaves who had no rights at all, but were merely settled on their owner's land as the best way of supporting them and securing their services, came gradually to be considered like the others, and were allowed first to retain their allotments for life, afterwards to transmit them to their children, and finally to their collateral heirs. No uniform rule, however, was established as to these rights or permissions. Different lords gave different rights and different courses of succession; different rights of alienation by conveyance or by will were established in different districts or lordships, and different sums were paid to the lord as fines upon descent or alienation. One thing, however, was common originally to the whole—some service was exacted by the lord, and this service was of an inferior or base kind; never the military service by which free land was held by the free men, vassals of the lord. These were the freeholders of each manor or lordship, owed suit-service to the freeholders' court, and were bound to follow the lord in war. But the serfs, even when established in their rights of property, only attended customary courts of an inferior kind, and served the lord in a humbler way.

Such is, probably, the origin of manors, in which the lord's court or court baron was composed of the freehold vassals.

The freeholder's title was by charter and livery of seisin, that is, a grant from the lord, and possession publicly delivered to the vassal; and he did homage and owed fealty to the lord. The serfs held of the lord also, but belonged not to the higher court baron; they held their land by an entry made in the books of the manor, of which entry the steward, the judge of the inferior or customary court, gave them a copy as their title; whence they came to be called *copyholders* as well as customary tenants; and the steward's court was called the copyhold as well as the customary court. The services which these copyholders owed varied in different manors; none were of a military nature; but they differed materially, some being so low as doing the menial offices about the lord's house or castle; and these were called *drengage* services.*

Originally the serfs—as the name implies, being from *servus*, a slave—were wholly the lord's property, and could be sold as an unemancipated negro can in the West Indies. Afterwards they became fixed to the land, and though they passed with it and could not leave it, yet they could not be sold without it. Hence they were called *villeins* or *villani*—inhabitants of the vill or district—and as this name was extended to all serfs, the villeins were distinguished into such as belonged absolutely to the lord, called villeins in *gross* (a word used by lawyers to denote separable nature), and such as were attached to the soil, termed villeins *regardant*. By degrees all became of the latter description, and their duties or services were fixed, and their rights established. In time they obtained as indefeasible estates (that is interests) in their copyhold lands as the freeholders held in theirs; and the rights of the lord over them being gradually retsricted, they became little inferior to freeholders, at least in those manors in which only fixed sums were paid by way of rents, called *quit-rents*, being in commutation of all services due to the lord; for the value of money falling, that which was originally a fair compensation for the services came to be little more than a nominal payment. In some manors the fines or compositions payable for renewal of possession on the death of the lord, or of the tenant, or upon alienation, were fixed at so many years of the money rent, and thus the fines also became little more than

* Lord Coke mentions having met with instances of a service not villein but socage, that of being executioner.—Co. Lit. 86 a.

nominal. But in other manors the fines were more real, being so many yearly values of the land; and this tenure in England, chiefly in the northern and eastern counties, exists to the present day, as we stated before.

By degrees the emancipation of the villeins took place in nearly all the countries of Europe. Many purchased their freedom, as wealth increased and became more generally distributed; some obtained it by serving in war; the church encouraged men to release their serfs; but it is remarkable that the priests did not practise their own lesson; for the church serfs were almost everywhere the last emancipated, though, in general, they were the most mildly treated. In Italy villenage had entirely ceased at the beginning of the fifteenth century; in some parts of Germany it had ceased a hundred years before, while in other parts it has existed down to our own times. In England there were hardly any remains of it at the accession of James I. In Scotland the colliers and salters were held in villenage as late as the reign of George III.* In France, although villenage had ceased generally in the fifteenth century, yet in many parts of the country it was left for the revolution of 1789, the source of so many other improvements, valuable, though dearly purchased, finally to destroy it. In Denmark villenage has only been legally abolished during the present reign; and in Russia it exists at the present day, as we have already shown.†

* 1775. They complained of the act as a trick of their owners to evade certain payments; so that in practice their servitude must have been extremely mild.

† The account given of the feudal system by some writers differs materially from ours in several particulars; and there is certainly a great discrepancy among the authorities both as to facts and opinions. The subject is involved in obscurity. Beside the controversy as to feuds originally being held at will, the following points are, among others, subjects of dispute:—viz. the manners of the Germans; their yearly division of land; their improvement between Cæsar's time and that of Tacitus; their progress from that period till Clovis's invasion; the comparative advances made by the Lombards and the other races; the virtues and merits of the Franks; the conquests, authority, and character of Charlemagne; the original obligation of allodial proprietors; those proprietors being the descendants of the conquered owners; the exclusively military nature of the feudal relation at first; the influence of the Roman manners and customs on those of their conquerors; the similarity of the feudal relation to that of the comites and ambacti; the existence of that relation among the Anglo-Saxons; the origin of socage tenures in England. These probably arose from the Saxon times. Thus gavelkind and burgage are socage. Some hold *reve* or socage land to have been allodial, afterwards feudalised.

CHAPTER IX.

FEUDAL SYSTEM.—*(Continued.)*

Effects of the Feudal Relation upon Government—Power of the Barons—Right of Rebellion—Precarious Military Power of the Crown—Right of Private War—Legislative Power—Origin of Estates and Parliaments—Judicial Power—Effects of Feudal Relations on Society—Barbarous Habits of the Feudal Chiefs—Love of War—Subordination and Oppression—Origin of Nobility—Importance given to Landed Property—Judicial Power of Barons—Effects of Hereditary Aristocratic Principles—Encouragement of Warlike Habits—Discouragement of Improvement—Undue Veneration for Antiquity—Crusades—Chivalry—Benefits derived from these—Good effects of the Feudal System—Decline of the System—Rise of the Towns.

WE are now to examine somewhat more nearly the effects which the feudal relation between lord and vassal has produced upon the structure of government and society in the countries where it was established.

1. We have already observed that the connexion between the lords and the general chief or prince was less intimate than that between the lords and their vassals. The allegiance was the same; they did the same homage to the sovereign which they received from their own vassals, and they swore to him the same fealty. They were bound to perform the same duties, and among others, to attend him in his wars. But as they seldom came near his court upon ordinary occasions, and lived constantly in their several districts, surrounded with their vassals, a much more intimate union prevailed between them and those retainers who became in process of time entirely devoted and subservient to them. Hence both the independence which the feudal barons maintained with regard to the crown, and the oppressions which they exercised over their vassals. And although it has been said, in one sense justly, that the structure of a feudal kingdom and a feudal barony was the same, the kingdom being a great barony and the barony a little kingdom; yet they differed materially in this respect, that the power of the king was much less in his realm than that of the baron in his lordship. There are said to have been 1115 baronial castles in England in the twelfth century.*

* 2 Inst. 31.

2. The original independence of the barbarous leaders, comrades of their chief, was not diminished on their settlement in the conquered countries; and it was greatly increased by their long-established residence and power over their vassals. The extent of the vassal's obligation to follow his lord in war has been the subject of discussion, and the existence and nature of the controversy shows clearly the amount of the baronial authority, and the restricted powers of the sovereign. It is doubted how far the vassal was bound, that is, bound by law, to follow his lord against king and kindred—in other words, to fight by his side against his own nearest relations and against the sovereign of the country. It seems, according to modern ideas, hardly reconcilable with the existence of any government at all that such a thing should be even questionable; yet it is certain that the question only arose after the lapse of some ages, and that at first the vassal's obligation was not doubted. In the ordinances of St. Louis of France, in the middle of the thirteenth century, it is laid down that the vassal is bound either to follow his lord against the king, provided justice is denied by the king, or to forfeit his fief. In order, however, to reconcile this with the allegiance which the baron owed to the sovereign, he was obliged to begin his hostilities by formally renouncing that allegiance; unless he did so, he was guilty of high treason; one branch of which, by our law still in force, and passed so late as the 25th year of Edward III.'s reign (1352), is "levying war against the king." There remains an account in some detail of the course which a lord was to take, in order to give the king due notice before commencing hostilities, upon justice being denied. The singular process, in the case of a subfeudatory, is referred to in the Etablissements de St. Louis—(Guizot, Civ. Fran., iv. 75.)*

3. The manner in which the great charter was obtained from King John in this country, illustrates the power of the feudal barons; for that was the act of those lords alone, in which the country had no share. One of its clauses (61) expressly gives to them † the right of making war upon the Crown in case the charter is not observed, and requires every man in the kingdom to

* In Normandy, and in England after the Conquest, the vassal's oath of fealty reserved the allegiance to the king.

† The commonalty are also mentioned in this part of the clause; but it is quite clear from what follows, that they are only mentioned as aiding the 25 barons.

swear that he will obey them, and join in the rebellion. In some other states the right of rebellion appears to have been assumed still more systematically; and in one, the kingdom of Arragon, it was the law of the constitution, that if the king or his ministers violated the privileges of the subject, by which was, in those times, meant the barons, these with the magistrates of cities might assemble, take an oath of mutual fidelity, and demand redress formally, as a body recognised by the law, which redress being refused, or if the king took arms against them, they might renounce their allegiance and choose another sovereign. This was called "*the privilege of union;*" and being frequently exercised was repeatedly confirmed by the crown. The last confirmation was in 1347, soon after which the king, having defeated the barons, abolished it by a formal decree. It is not wonderful that in a country so situated; the allegiance of the barons to the prince should prove a feeble tie. The oath, indeed, which they swore to him upon his coronation, was of a conditional and qualified kind:—"We, who are each of us as good as you, and who are altogether more powerful than you, promise obedience if you maintain our rights and liberties—but if not, not." The spirit of this oath was universal in all the feudal monarchies, although it was not embodied in words anywhere but in Arragon.

4. The whole arrangements, civil and military, of the feudal system, were such as to render it quite impossible that the Crown should have any steady or considerable authority at home, or any regular power abroad. The revenue was almost entirely derived from crown lands,—the portion of the territories of the state which had never been allotted, or which had been forfeited by the treason of individuals, or which had been seized upon by violence; and these were either enjoyed by the prince himself, and through his tenants rendering him rent, or they were in the hands of feudatories, vassals who owed him service, in person, in kind, or in money. The revenue derived from this source must evidently, at all times, have been somewhat precarious, and never could place any considerable sums of money at the Crown's disposal. The expenses of the palace, and of the deputies or sub-governors, might be defrayed from this source; and these, according to the habits of the times, were always very large, from the perpetual exercise of a rude hospitality upon a very extended scale—hun-

dreds of followers living constantly at the charge of the prince, and being supported entirely at his castles, in return for which they rendered little or no service of any value. The army, again, was a fluctuating and uncertain body during war, when the barons, summoned to attend the king's standard, came with as many or as few men as suited their own notions, or fell in with their humour of the moment towards the court, and very frequently they refused to come at all on various pretexts. Add to which, the king could never be certain that any of his more powerful barons would not take the opportunity of a war to advance some claim for themselves, and join the enemy, or harass the king while preparing to oppose a foreign power. Nothing is more common in the feudal history than the king being obliged to suspend his operations in order to march against a refractory chief, who fortified his castle or ravaged the country, and set the Crown at defiance. In peace, the prince had nothing like a regular standing army. His constant followers or retainers were armed, and formed a moderate retinue; and the vassals, who owed him so many days' service in the year, might be summoned to attend him, which however was seldom done, unless some hostility, foreign or domestic, broke out to require it.

5. Nothing more weakened the Crown's authority, or more obstructed the progress of all improvement, than the warlike and turbulent character of the whole people, derived from their barbarous ancestors, and producing a regularly established system of general war and violence wholly unknown in any other age, or in any other part of the world—a system, indeed, scarcely compatible with the existence of civil society, and suited rather to the state of savage nature than of a social community. This practice of private war, like other characteristics of the feudal times, was known among the northern nations before their irruption. Injuries done to individuals were avenged by themselves. The magistrate had no power of punishing a freeman, even for murder. (*Infra*, p. 312.) His death was revenged by his family, and the state only imposed a fine by way of compensation to the relations, who took half of it, the public or chief receiving the rest. Quarrels were thus hereditary as well as unrestrained; nor could any offence be atoned for without taking arms and trying the fate of a battle.

These barbarians, when they settled in the Roman provinces,

of course retained this leading characteristic of their original manners. The causes of quarrel now became more numerous as the means of revenge and of aggression were increased by the feudal relation of superior and vassal. Each lord was followed in the field by his retainers; and the practice, far from being reprobated, was for ages recognised, and even in some cases prescribed by the law. Thus the law of the Angles, who, as we have seen, conquered and gave name to England, provides that whoever succeeds to the land of any one, as his heir, shall likewise be entitled to the warlike garment of the deceased, and to the revenge of his injuries against his neighbour, and the obtaining satisfaction or redress for his followers. The Lombard law was originally the same; and there can be no doubt that such was the general rule before composition by money payment was introduced. Certain limits only were affixed to the exercise of this truly barbarous right. Persons of rank and station were alone entitled to exercise it; slaves, and villeins, and even freemen of lesser consideration, as the inhabitants of towns, were to have their differences settled in courts of justice, that is, in the courts of the prince or the barons. It was also for grave injuries or insults alone that war was allowed or required; and where the law permitted its being undertaken, it enjoined on the kindred the duty of taking a part, by providing that if they stood neutral they forfeited all right to inherit from the parties who were allowed to fight. It is needless to add that what was in so many cases permitted by the law, was often resorted to where there existed no lawful ground; so that almost all disputes, even those respecting property or other civil rights, came to be settled by this method of decision. Here again the superstition of the times chimed in with the ferocious character and warlike habits of the people; and one mode of trial admitted in courts of justice was what they termed *wager of Battle*, by which the question at issue between the parties was staked upon the event of a single combat between them or their chosen champions—the remains of which savage mode of proceeding continued to our own day, and were only abolished by an act passed twenty years ago. As civil society could not have existed much longer under this practice of private war, and as the rule both of the Crown and of the church was peculiarly endangered by its consequences, the prince and the ecclesiastics set themselves

against it in every part of Europe, and found difficulties all but insurmountable in the way of abolishing a custom so long established, so congenial to the fierce habits of the people, so well adapted to the feudal scheme, and indeed so naturally growing out of the relation between the rude chieftains and their savage and idle retainers. It was only by slow degrees and by many devices that it could be at length put down. Edicts were issued requiring a lapse of forty days after the injury before arms could be taken to revenge it. Time, it was hoped, would thus be given for the passions to cool, and for negociating to obtain reparation; but this change in France was of so late a date as St. Louis, in the middle of the thirteenth century. Four hundred years before, Charlemagné had attempted to prohibit the practice altogether, by requiring the wrong-doer to submit to the penances of the church, and make the compensation prescribed by law; and his ordinance had been so wholly ineffectual, that after his death private wars were more general than ever. The bishops, a century later, had threatened with excommunication all who made war without attending to the restraints imposed by law upon the practice. In the eleventh century they introduced the *Truce of God*, which was generally adopted all over Europe, and prohibited all hostilities during Friday, Saturday, and Sunday in every week; these being the days between the crucifixion and resurrection of Christ. This truce, however, was ill observed. Late in the twelfth century a carpenter in the south of France, probably encouraged by the priests and the government, announced that he had seen in a dream the image of the Virgin Mary and her Son, with this inscription, "O Lamb of God, who takest away the sins of the world, grant us peace." An assembly of prelates and barons receiving this as a Divine communication, formed a league called the *Brotherhood of God*, and resolved to attack with arms all who would not lay down theirs, and be reconciled to their enemies. By these and other such devices, and by the gradual improvement of men's minds in the course of their application to more peaceful pursuits, the sanguinary practice was at length abolished, or died away; but the government for many ages could make head against it no further than to prevent private wars from being carried on while the prince was engaged in hostilities on behalf of the state.

Such were the consequences of the feudal system and its

accompanying circumstances; and from these we deduce almost all the most important particulars respecting the limited power of the Crown, the exorbitant domination of the barons, and the oppressed and degraded condition of the people at large. We have already adverted to the state of the Crown's power, and to the usurpations of the barons both on it and on the people. Before examining further the influence of the system upon the state of society, it is fit that we take notice of the two most important functions belonging to the government, the legislative and the judicial powers.

1. In their own country, long before their irruption, the barbarous nations had stated assemblies at which they deliberated upon public affairs; chiefly upon the enterprises which were in contemplation, and upon conquests which had been made, or the reverses which had been sustained, during the intervals of their meetings. Tacitus informs us, that the Germans held such assemblies of the people at large, that is, the freemen and warriors, who met armed; and that smaller meetings, or councils of the chiefs, were held on affairs of inferior importance. The same practice was continued after their settlement in the provinces of the Roman empire; and as each conquest was extended so as to embrace a larger dominion, the councils or assemblies were likewise enlarged. When the barons had established their power, these assemblies were composed of them together probably with all owners of land who held it allodially, or without any feudal services, and all who held immediately of the prince, in whatever way—they, the barons themselves, holding their possessions of the Crown by grant, and not allodially. But we really do not find any traces of the double assembly mentioned as held among the ancient Germans. By degrees, as we have seen, the numbers of allodial proprietors diminished, till latterly, in most countries, there existed few, if any; and then the numbers of those attending the national assemblies must have diminished in proportion, till at length they consisted only of the barons and other tenants in chief (or *in capite* as it was called) of the Crown. These two bodies were the constituent parts of the assembly; the one, the smaller in number and of the higher authority, the barons —the other, the inferior persons, more numerous and less important, the whole freeholders or crown tenants who chose to attend.

The gradual diminution of the numbers of the assembly is proved by various authorities to have followed, or rather accompanied, the gradual extinction of allodial property in different countries; and by degrees in many states the freeholders ceased to attend. In France provincial assemblies were held, to which all freeholders as well as barons went; but the barons and more important freeholders alone came in process of time to attend the general or national meetings. So in England the assemblies at the end of the Saxon period, and just before the Conquest, seem to have been attended by few beside the great barons; afterwards, however, the freeholders or lesser barons attended as well as the greater.

Those assemblies were originally held in most countries twice a-year: spring, or after seed-time, and summer, or before harvest. Probably at first the expeditions for the summer were discussed at the one, and the division of the booty at the other of these meetings. The decision of other matters was also come to; as the making of laws or general regulations required for the government of the community, and the adjudication of those mutual disputes or claims between great men which they chose to bring before this tribunal without having recourse to arms. Frequently, too, disputes between the prince and powerful chiefs were there decided, and criminal proceedings taken against those who had acted contumaciously towards the general assembly or the Crown. The grievances of the country in consequence of the king's conduct were also treated of at those meetings, and remonstrances made, and more severe measures threatened both against himself and other powerful individuals. In progress of time, when wars and other occasions of expense rendered supplies of money necessary for the Crown beyond the original feudal revenue of royal domains, forfeitures, rents, and other feudal payments, the consent of the assembly was required for what was termed an *aid* or *benevolence*—the first form of a tax, and an extension of the feudal aids which, as we have seen, were properly speaking confined to the heads of marrying the lord's daughter, making his son a knight, and redeeming his own person from captivity. In all the feudal kingdoms traces are to be found of these assemblies, sometimes called *States* or *Estates*, as in Germany; some-

times *Parliaments*, as in France; sometimes *Cortes*, as in Spain; and in England *Wittenagemotes* during the Saxon time, and after the Norman conquest, *Parliaments*.

Originally, it is most probable that the whole members of these assemblies were mingled and confounded together in the same body. In Germany, before the irruption they clearly were so; and in the feudal kingdoms they sat all in one chamber for many ages. But early in their history a distinction of material importance was introduced: the greater barons with the superior ecclesiastics, that is, the prelates and mitred abbots, withdrew themselves from the lesser barons and sat by themselves in the upper part of the hall, leaving the rest to associate together in the lower part. But all voted together as component parts of one and the same body. It was so in the earlier assemblies of France, those of the Champ de Mars and Champ de Mai, where the general affairs of the kingdom were considered. In the States General, which only began to be held in any regular form at the beginning of the fourteenth century* after the ancient assemblies were disused, and which were chiefly confined to granting subsidies, the Orders appear to have sometimes sat and voted together, and sometimes separately. The latter course was more usually pursued for some time previous to their meeting in 1614; it was pursued also at that meeting, which was the last until they were revived in 1789. The three orders then also began by meeting in separate chambers; but the first great step taken by them on that memorable occasion was to unite and form one assembly—a step which, from the preponderance of the popular branch, may be regarded as constituting the French Revolution. The different orders in the Spanish cortes and Germanic assemblies met also together; so did they in the Sicilian parliament; so did they in the Scotch parliament, down to the period of the union in Queen Anne's time; the English parliament alone having separated into two chambers, certainly as early as the reign of Edward the Third, and probably in Edward the First's time, in the thirteenth century.

But this is not the only peculiarity of our parliamentary history. Although, as in other feudal kingdoms, the barons alone originally sat, the lesser barons or freeholders in time became so

* There are traces of States, that is, of assemblies at which deputies from the towns attended, considerably earlier, once certainly in St. Louis's reign, in 1252.

numerous that they could no longer attend the meetings in person, and they chose representatives or deputies to attend for them. The burthen of appearing in those days was one which men wished to escape from, and they would have sent persons to appear for them in order to avoid going themselves, even if their numbers had not rendered a general assemblage impracticable. By degrees, others as well as the freeholders, were represented in this way; for the towns or boroughs rising into importance as wealth and trade advanced, sent deputies. The representatives of freeholders in counties sat and voted originally with the bishops, abbots, and barons; the representatives of burgesses* in cities and towns, probably always sat and voted apart, whether in the same chamber with the other branch or not; but the two classes of representatives became united together at a period not accurately ascertained, and sat in a chamber of their own, certainly as early as the beginning of Edward the 3rd's reign, probably forty years before, in the latter part of the thirteenth century; which chamber ever since has been called the Commons House of Parliament. Originally all freeholders chose their representatives or knights of shires; but in the 6th of Henry 6th, 1428, on pretence of the riots occasioned by crowded elections, the franchise was confined to those who had 40*s.* a year freehold property, answering in value to about as many pounds of our present money. Originally, it is probable, that all freeholders in towns chose the burgesses or borough members. But by degrees certain classes—freemen of corporations in some—freeholders and freemen in others—in a third class, holders of tenements called *burgage*, or houses held of the king or other lord of the borough for fixed rent or service—usurped the sole right of governing the town's affairs; obtained charters from the Crown, confining all privileges to these bodies; obtained decisions of courts of law, which, on pretence of avoiding tumultuous elections, like the parliament of Henry 6th, were always anxious to narrow the elective body; and among other franchises, those select classes, until the change effected in 1832, usurped the sole right of electing

* The first certain evidence of the burgesses being summoned to parliament goes no further back than the latter part of Henry the 3rd's reign, the year 1264; but there seems good reason for believing that they were summoned occasionally, at least, considerably earlier. The great charter of that king, made forty years before, states the subsidy to have been granted by "the knights, freeholders, and all others," as well as the prelates and barons, which seems to show that some persons attended on their part.—Cap. 38.

the representatives of the towns. The history of the Scotch Parliament is nearly the same, except that no separation of chambers ever took place there. In France some representation existed in the States, for the towns sent deputies, who composed the third estate *(tiers-état)*; in the Spanish Cortes, the towns were represented at least as early as the middle of the twelfth century; and in the Sicilian parliament, the deputies of royal towns formed one of the estates. But representation of any other class in the community never was established in any of those governments; and no representation of any kind ever assumed a regular and systematic form excepting in the different portions of our own country. In all other states, too, the use of Parliaments was two or three centuries ago either wholly put an end to by the encroachments of the Crown, or it was so limited, and those bodies were so changed from their original purposes and so restricted in their original privileges, that the substantial benefit of the institution was wholly lost to the people.

2. The lord and his vassals originally administered justice in the district or manor. There were, as we have seen, two courts of a civil jurisdiction—the Court Baron, properly so called, or Court of the Freeholders, and the Copyhold Court, or that of the customary tenants; and there was one of a criminal and police jurisdiction, called the Court Leet, frequented by all the inhabitants. The jurisdictions of these courts were originally very extensive; but there now remains only a small remnant of their powers. The County Court, composed of the freeholders, and holden by the alderman, earl, or count, originally the governor of the county, afterwards by his deputy, the viscount, or sheriff, as he is now called, had an extensive local and ordinary jurisdiction, criminal as well as civil, while the bishop held jurisdiction of all ecclesiastical suits. The superior courts of the king were probably established for revising and controlling the judgments of the inferior judicatures; and as the powers of the barons were diminished, and those of the Crown increased, and the government became more solidly established, and more regularly arranged, the king's courts acquired an extensive jurisdiction in most branches of judicature. In England the Conqueror established the courts of Westminster Hall, and Henry II., about the year 1170, first divided the country into six circuits, and appointed judges to go round. At first those circuit courts

were held occasionally, at irregular intervals; afterwards those intervals became shorter, and the circuits were fixed. The establishment of Justices of the Peace took place in the reign of Edward III., in 1327, and was rendered necessary by the diminished authority of the Manor and County Courts, and the inefficiency of the commissions of *Trail-baston*, issued occasionally by Edward I., and which in some respects resembled the commission of the peace. But originally and by the common law there were *Conservators* of the peace chosen by the freeholders in the county courts, who had jurisdiction in police and misdemeanors, without the power of trying felonies. In all the feudal kingdoms, however, the administration of justice belonged to the parliament, or national assembly, sometimes in the first instance, and always in the last resort. In France, the parliaments, originally assemblies endowed with general legislative powers, came to be almost entirely confined to their judicial functions; they were the courts of justice of the provinces in which they had once been the political or legislative bodies; and the parliament of the capital, Paris, alone retained the power of registering the king's edicts, without which they had not the force of law—a privilege almost nullified by the king's right of holding what was termed a *Bed of Justice*, and commanding the registration. In England the judicial power in the last resort is still preserved to the Upper House of Parliament, as the general court of appeal from all the courts of the kingdom. But though in practice one branch only of our legislature exercises this important function, it does so as acting for the whole, and the appeal, in contemplation of law, is to the Parliament at large. In the earlier ages the whole body appears to have exercised an original jurisdiction.

The benefits conferred upon civil liberty by the checks which the feudal system has everywhere established to the power of the Crown, thus appear to be important and incontestable. Those advantages are, however, unfortunately not the only fruits of that singular scheme of polity.

As it is impossible to conceive a character more averse to all civilisation and improvement than that of the barbarians, and more calculated to prevent any progress from being made in the arts of peace, so it is impossible to imagine any system of policy more suited to that character than the feudal, better adapted to prevent it from changing, and more fitted to increase its mis-

chievous tendency in obstructing all advances in refinement and civility. The savages of North America never were more bloodthirsty, nor delighted more in acts of mere violence, and slaughter, and cruelty, than the European barbarians. The Goths drank wine in goblets made of their enemies' skulls. Although the numbers of the Vandals who poured from Spain into Africa did not exceed 30,000, there are said to have perished five millions of human beings in the two years it took them to overrun that fine province, and in Belisarius's wars to recover it. Indeed that country has continued a waste ever since, being the only instance in the world of peace not being able to repair the ravages of war. The Huns regarded death as infamous, unless in the field of battle; they gloried in the numbers which each had slain with his own hand; and fixed the scalps of their enemies to the trappings of their horses. Their most renowned chief Attila's name given by the terrors of his victims, but in which he delighted and gloried, was "*the scourge of God*," as Alaric, the Gothic leader, was called the "*destroyer of nations*." In these inroads the Huns are said to have killed or led away captive 600,000 persons. One of the contemporary historians (Procopius) refuses to record the cruelties committed by the Goths, for fear of showing future ages an example of ingenious crime. In Africa neither age, nor sex, nor sacred office was spared by the Vandals, and the most exquisite tortures were employed to force the disclosure of hidden wealth. Both there and in the invasions of the north of Italy by the Huns, mere destruction seems to have been the object of the barbarian's rage. Statues, vines, olives, buildings, lives—all were swept away with the sword or in the flames by the lust of indiscriminate devastation.

When these savages established themselves in the provinces they continued to regard all the arts of peace with unspeakable contempt and aversion. Prizing only the warlike virtues of courage and hardihood, the Romans, now become feeble and effeminate, were with them the objects of the utmost scorn. When, says one of their own writers, we would fix "the most disgraceful appellation on an enemy, we call him a Roman—a name which comprises every thing ignoble, cowardly, avaricious, luxurious, false—in fine, all kinds of vice." Even in peace they would not suffer their children to be taught any useful learning, saying "that scientific instruction enervates and corrupts the

mind, and that he who has trembled under the rod of the teacher will never look upon a sword unmoved."

Such were the founders of the feudal system every where—such is the source in which it took its rise. The present distribution of rank and power and influence in Europe, may be mainly traced to the character and habits of those savage tribes. Their warlike spirit and barbarous propensities were aggravated if possible and perpetuated by the plan of making military service the foundation of all property and all consideration, and the tie which knit the whole frame of society together. One kind of merit alone was recognised, warlike capacity—one distinction between man and man alone admitted, bodily strength and physical courage. The whole of society too, was distributed and arranged on a martial footing; every one was either the commanding officer, or the soldier, or the companion in arms of every other. The whole efforts of each community were directed to attack or defence. Nothing could have been contrived more certainly calculated to arrest the progress of the human mind in every pursuit worthy of rational creatures. Accordingly every profession but that of arms was regarded as beneath the notice of a freeman, one only exception being made in behalf of the priesthood, from the superstitious feelings of those ages, and even this an apparent rather than a real exception, inasmuch as few betook themselves to the church, who possessed strength of body, sufficient courage, and competent consideration among their relatives or neighbours.

From the same source arose the distinction of ranks in the feudal states, and it was regulated by the same principle, the annexing service to land.

The distinction of men into various classes is inseparable from the constitution of all communities. There will always be some more wealthy than others; some more powerful; some exercising the functions of governor, or commanding the forces, or serving in the offices of judges, and of priests. This personal superiority of one man or set of men over another, is therefore inseparable from civil society, and the superiority being confined to a comparatively small number, must distinguish these from the bulk of the people. Wherever a single chief has the supreme power, his companions and favorites form a distinguished class in like manner. But the transmission of influence from father to

son, is a refinement of slow growth and comparatively of late introduction into most communities. Its earliest form is that of the wealth which descends to the owner's children; and, as this is always accompanied with more or less influence, a kind of upper class by inheritance becomes established through the succession to property. In no other respect can rude nations be said to have any privileged order, or any class distinguished from the rest, and this is plainly nothing like a nobility or order of an hereditary nature.

It is not easy to ascertain whether the Roman historians mean to assert that the ancient Germans had an order of nobility, or only use the word nobles, to designate the men of greatest influence from their military and other merits.* It seems hard to believe that so rude a state as those barbarians are described to have lived in, should have admitted the great refinement of rank or influence descending in families without any regard to personal merit or unfitness. An accidental succession of able, fortunate, and powerful men in any family might give the first idea of such hereditary distinction, because it is the natural feeling of mankind to show some respect for those whose ancestors were famous, and a repetition of the same merits in successive generations of men would naturally confirm such sentiments towards the family. Accordingly we find that at Rome men were distinguished from their fellow-citizens if they sprung from ancestors famous for serving the state; and even if those ancestors had served in any high office, their descendants were called nobles, and had a right to have images of them in their houses. The having come from senators, the *patres* or fathers, was however the main distinction, and made their families be called *Patrician*, and form an order from among whom alone the senate was elected for some ages, though, in the progress of freedom, the common people or plebeians also acquired a right to be chosen senators, and certain offices, to which they always were eligible, at all times gave them senatorial rank, and made their descendants Patricians. There is no other instance probably of the refinement of hereditary rank among so uncivilised a people, and with them the election precluded the risk of important functions being exercised by unfit persons; although the choice was for a long time confined

* Cæsar, Bel. Gal. VI. 13. 15. 21.—Tacit. Mor. Ger. c. 8. 13. 25.—Naudet treats this question very judiciously, v. 101.

to one class. Mere rank, mere hereditary claim to office, or to any privileges except that of eligibility, was unknown before the decline of the Empire, and even then the sovereign selected the senator as he did all other officers. The early nobility was nominal merely; the right of having images in the family conferring no distinction of privileges.

When the feudal principle was introduced, a distinction was at once established between the persons who possessed land and those who did not. The former engrossed all the consequence and influence of the community; the latter, supposing them to be of free condition, occupied an inferior station. Whatever property they had, was of a kind much less prized, indeed much less valuable, because less secure, and gave its owner no privileges. The landowners were the defenders of the state; they shared in its expeditions and in the booty taken; they formed the military class. By degrees, however, a more numerous class arose and grew into general importance. The number of freemen who were not landowners by any title, rapidly diminished as we have seen; and all, or nearly all, except the owners of the soil, were in a state either of personal slavery, or of that qualified slavery which annexed them to the land as cultivators. The difference, therefore, between landowners and men who had no land in any way except as small cultivators, came to be equivalent to the difference between freeman and slave, or serf or villein—and, accordingly, to this day, the word gentleman, or person of station, in some countries, is synonymous with freeman. Again, almost all the slaves were labouring peasants, the industry of the towns being of little or no importance; and hence in other countries, as France, the people of ordinary condition were called clod-breakers, *rupturarii* or *roturiers*. But the important distinction which established various degrees in the feudal communities, was that between the different owners of the soil who rose above each other in gradations according to their tenure of it, and interest in it. The over lord, or lord paramount, or chief superior—the under, or middle, or mesne lord—and the vassal under him—formed ranks of manifest diversity; and this distribution of the people was not ideal or imaginary merely; it was founded upon a substantial difference. The land was held by them in different ways; one reaped the profits by cultivating it; the others received cer-

tain perquisites from it without risk or labour. But still more important was the difference of power over it. The inferior could not exercise over it the full rights of property; for many ages he could not devise it at his death, or alienate it without leave of the superior; and most important of all was the service which he owed the lord in consideration of the land. He was his subject—his inferior in power, and in security, both of person and property—seeking from him protection, and rendering him allegiance; following his standard as his soldier in war; attending his courts in peace; receiving at his hands favors, hospitality, and even justice when injured by his fellow vassals. Beside all this, he was bound to certain tributes, all more or less degrading—all burthensome; so that every day he lived, every act he did, all that could befal him, was singularly calculated to remind him of his own subjection, and of his lord's superiority.

The manner in which the vassal's property descended in his family was equally calculated to preserve this feeling of dependence. The right which should have made him more free and more equal, was enjoyed in a way adapted to rivet the same sense of inferiority. When the vassal died, his heir, even the heir designated by the lord's grant to receive the land upon his decease, was obliged to pay a sum for ransoming or redeeming it from the lord. Notwithstanding the form of the gift, the land was supposed to have fallen into the lord and giver's hands, and was to be relieved or taken out again by the donee at his own cost. He was again reminded of his insecure tenure when his lord died—a new tribute was to accompany the allegiance due to the new lord. When the new vassal was under age, his land became the property of the lord, or of whomsoever he granted it to; and the young owner was trained to obedience at the lord's will and pleasure. When the lord's eldest son, the future superior, was made a knight, that is, attained his proper station,—the station of a grown-up warrior—the important ceremony of his enrolment was to be performed at the expense of the subjects of his father, who were thus reminded, that the dominion over them was hereditary, as well as their own inferiority, and learnt betimes to respect their future lord. Nothing ever was contrived more completely fitted in all its parts to inculcate and to preserve in men's minds a sense of the inferiority of one class, and superiority of the other. The whole existence of the people at all

times, and in every act of life was connected inseparably with their sense of the difference between the one station and the other. Every one was taught that he owed obedience to this class, and had a right to exact it from that,—every one felt that he had both superiors and inferiors—he was the vassal of one, the lord of another—and those who had no feudal vassals exercised dominion over villeins and slaves.

This peculiar structure of society all over the feudal world was accompanied with notions of a sufficiently preposterous kind regarding distinctions and honours. The allegiance which all men owed, either to a subject or to the prince, came to be viewed with the complacency by which human nature seeks so often to reconcile its circumstances with its pride, and to conceal humiliation under a less mortifying disguise. Homage and fealty were held to be creditable, and men vied with each other in pursuit of their master's favour—as they had others, their inferiors, who were equally rivals for their own smiles. The staple occupation of all being arms, and the currency in which all service was rewarded being land, tended still more to keep up ideas of personal dignity even in those who most submissively obeyed their chief; for the possession of land gave a kind of establishment to each vassal, and the profession of arms, with its dangers, raised him in estimation, and covered the subordination of the condition in which it was exercised. Hence the most menial offices connected with allegiance and with service, were not only not despised—they became objects of ambition. The sons of vassals in the easiest circumstances were honoured by being made the foot-boys or pages of the lord's wife or daughter: at a maturer age, they were distinguished by becoming the squires or military servants of the lord or his son. Barons of a higher importance had their cup-bearers, their butlers, their farriers, the chiefs of their stables or horse, the stewards of their house, the superintendents of their chambers—and those vassals were the most fortunate who could obtain for themselves such employments. In all the feudal kingdoms, those places in the prince's household were filled by the most powerful and favoured of the lords; and to this day the highest rank is assigned in the different European states to those who are the royal chamberlains, stewards, and masters of the horse. Thus the feudal principle of subordination and allegiance, introduced into the free countries of the west, had

much of the subserviency and sycophancy which reigns through the courts of the eastern despots. The European barons were indeed powerful in reality—their sovereign had for some ages little real authority; but the feudal notions gave the outward show of as abject submission as prevailed in Persia or in Turkey—a submission so deeply rooted in men's minds, that it survived the power of the barons, increased with the crown's power, and became a real bond of subjection as well as a badge of slavery, when the crown had effected its emancipation from the feudal thraldom, and had begun to tyrannise over the whole community.

From the extreme value set upon distinctions by the barons, as well as from the influence which they usurped and employed to obtain more substantial benefits, it resulted that many of the greatest offices in all countries were obtained by them from the crown as hereditary possessions, and passed from father to son like landed estates. They were regarded and treated as fiefs or feuds, and became subject to the incidents of the feudal tenure. Thus, the place of cup-bearer to the king was hereditary in one family—of standard-bearer in another—of chamberlain in another. Indeed, by a singular accident, in England the chamberlain of the kingdom is still an hereditary, while the chamberlain of the king's household is a removable officer. But offices of far more importance became the subject of feudal grant, and conferred hereditary power as well as precedence. In England we have an hereditary earl marshal, who was originally commander of the forces, and in one county (Westmoreland), an hereditary sheriff—the grant of the latter office having been made by king John; while in Scotland not only were almost all shrievalties hereditary, but the place of chief criminal judge of the kingdom belonged to one family, that of Argyle, until the reign of George II.

Such a system of superior and inferior—of dividing the people into different classes, all rising one above the other in degree, annexing not only consideration but power and privilege to the upper over the lower orders, and making it a kind of pride and glory for every man to be obsequious towards somebody—was certainly never before the feudal times imagined—much less brought into practical operation. Its worst tendency was to lower every man's mind—to pervert his feelings—to destroy the independence of his nature. It was attended, as its neces-

sary consequence, with the exclusion from high employments in the state of every one below a certain line of distinction, and the affairs of all nations came to be in the hands of the upper classes alone, who monopolised all the distinctions of the state.

This then was the origin of nobility—of the distinguished and privileged classes—which had exemptions every where from the burthens imposed upon the common run of the people, as well as access to offices and honours from whence these were excluded. In almost all countries they were freed from taxes paid by the public at large, and from services which were generally to be performed. The crown vassals in France and elsewhere had even regal rights within their fiefs, as that of coining money—of levying tolls both on carriage and in markets—of taking the goods of strangers dying within their fiefs, called the right of alienage or *aubaine*,* and possessed in other parts of the kingdom by the crown down to 1789—nay even of possessing the temporalities of bishops during the vacancy of the sees. Wherever justice was administered, they enjoyed advantages peculiar to themselves—such as freedom from personal arrest where others were subject to it, and even exemption from punishments which on others were inflicted. Indeed, one of the earliest distinctions between different classes was made in the administration of justice. The ancient Germans had but two instances of capital punishment in their laws—the one for treason, which was punished with hanging; the other for cowardice, which was punished with drowning. All other offences were considered as rather private than public wrongs, and visited only with compensation in money, which was shared by the injured party and the state. Nearly the same system was pursued by the barbarians after their establishment in the Roman provinces. Accordingly, in the feudal times, murder was only punished by the exaction of a sum called by the Saxons *weregeld*, and this varied with the rank of the person murdered. In England it was 600 solidi † for an etheling or noble, 200 for a freeman, and 30 for a serf. In France, for the antrustion, leud, or vassal of the king it was 600, for a Roman or guest of the king 300, for a common Frank 100, for a Roman the same, and for a tributory or cultivator 45. This was

* *Aubaine*, from *albinatus*, or *alibinatus*; though some say from *advena*.

† Solidus. This is the word used in all the Latin versions of the old laws, and is translated *sol* or *sou*. It is supposed to be equivalent to thirteen French livres, or about eleven shillings.

the scale of the Salic law, or the law of the Salian Franks which they introduced generally on their conquest of Gaul. The laws of Burgundy punished a blow by which a tooth was knocked out, with the fine or compensation of 25 solidi if a noble suffered whether Burgundian or Roman, 10 if a freeman of the middle class, and 5 if a slave or inferior person. So the crown vassals in France in later times had privileges in the mode of trial; in case of murder, after severe punishments were introduced, they only underwent the ordeal or trial by fire and water; and in case of contumacy or contempt of court, by not appearing when summoned, they were liable to no forfeiture of goods.

The oppressions committed by the nobles with impunity naturally resulted from their power and the dependent state of their vassals. Long after punishments of a personal kind had been introduced, justice, civil and criminal, even in capital cases, was administered by them—so that they could put to death such of their vassals as they chose, under colour of law. They habitually laid waste the whole country of their feudatories, in order to gratify their ruling passion for the chase; and not content with hunting over it, they made it forest and threw it out of cultivation. There are many provisions of the old law of England to prevent the king from exercising such a right. But none can be found restraining the barons, who had got the upper hand, and controlled the king, while they were comparatively indifferent to the interests of the state, or to the rights or to the complaints of the people; unless, when it was fortunately found expedient to conciliate the multitude as auxiliaries in the contest with the crown, by making some provisions in their defence against royal encroachments. Together with Magna Charta, the barons obtained from King John,* what they set as great store by, a Charter of the Forest, which subsequent princes renewed as often as they confirmed the great charter. It restrained the crown from making forests in other men's woods, and gave up whatever land had been thus seized upon. But no such acts can be found controlling the barons, and no renunciation of their right to pillage or waste, under pretence of hunting, was ever made.

* Both the monkish historians and other writers speak of this as a separate charter of John. It was certainly granted in that form by his son, Henry III. But there seems reason to believe that its provisions as incorporated in Magna Charta were alone enacted in John's time. Magna Charta was made in 1215; Henry's second confirmation and his Forest Charter in 1217. He was then a child, but the protector, Pembroke, administered the government.

The legislative power possessed by the barons was another, and in the progress of society, a still more important privilege. They formed one of the three estates, or orders, of the legislative body. In most countries they sat and voted with the other two orders, the clergy and the Commons. In France they sometimes sat apart, sometimes with the Commons, but apart at their last assembly in 1614, and on their revival in 1789. In England, as we have seen, they very early came to sit alone—or, at least, with a portion of the clergy, the prelates, namely, and the abbots of certain monasteries. This increased their power with us in more modern times, because their consent as a body thus came to be necessary for carrying every measure, and they could not be overborne even by the unanimous voice of the other order, the Commons; which, in the course of time, had acquired superior numbers and weight. The barons had, in this way, a veto on all measures; a veto which they lost in France when they were partly induced by persuasion and love of popular applause,* partly compelled by force, to join the third estate in 1789.

The nobility, which was thus established, and thus possessed such power over both the king and the country, was wholly territorial; it was founded upon, and inseparably connected with, landed property. Much obscurity prevails over this part of the subject as far as the question of political or parliamentary right is concerned. But, in early times, the individual power alone was much prized, and no one doubts that the acquisition of the crown fief or other property, which bestowed the substantial power, gave the military consequence and secured the protection and other privileges enjoyed by the crown vassals, conferred also the judicial authority within the district, and, in short, made the party a baron of weight and influence. A question arises whether or not the parliamentary privilege established in after times, on a more regular foundation, passed with the land, and this especially after other kinds of nobility had become known. The more sound opinion seems to be this—that when a barony, or other title of honour was annexed to land, as all honours originally were, the transfer of this land to a purchaser only gave the honour and the parliamentary place to one who was ennobled before—so that a nobility could not be created or a person ennobled by such a conveyance from a subject.

* It may be questioned if they ever would have done so but for the inferior clergy, who went over to the commons.

But although originally all nobility had its birth in the system of feuds, and all was territorial, by degrees the sovereigns of different states introduced the practice of granting the same distinctions which the gift of land had before bestowed, although no land now accompanied the grant. This naturally grew out of the privileges which the feudal relation of lord and vassal had long conferred. First, certain things were made the subject of the feudal relation and of infeudation, which naturally did not admit of it, as pensions, titles, offices. The severance of the feudal relation from land being thus effected, it was an easy step to create that relation without either land or any other grant, so far as to confer the protection and other privileges incident to the state of a vassal. But this was only done in the case of the crown, because the privileges of crown vassals were the only ones of an eminent and highly desirable nature after the more settled aspect of the times rendered personal protection of little value. Accordingly the prince in all states began to grant patents or letters of nobility, which conferred on the person receiving them, and generally on his heir also, the same rights and rank which he would have enjoyed had he become a feudatory or baron, holding under the crown; and as the strictness of the feudal system became more relaxed, and commerce introduced wealth among other classes as well as the feudal lords, this practice became more frequent. In England, where the parliamentary constitution has been much more regularly established, and has existed less interrupted than any where else, there have been two modes of ennobling adopted by the crown. The one was calling the person by a writ of summons to attend the parliament as a baron, and if he sat the heirs of his body, female as well as male, became noble. This is called a *barony in fee* or more properly *in fee tail*. The other mode, and the most usual in modern times is by patent of creation; and though this may give the honour to any series of persons, it is usually given to the heirs male of the grantee's body. The first patent of peerage was granted in Richard the Second's reign, in the year 1387, before which time all nobility had been with us either territorial (called baronies or earldoms by tenure), or by writ of summons and sitting. In Scotland the nobility was more territorial than it seems ever to have been here, and more connected with property; for a person marrying a peeress in her own right was entitled to a seat in parliament, and to the rank of a peer, though he was

himself a commoner; and if he survived his wife, he sat as a peer by the *courtesy*—which is the right enjoyed both here and in Scotland by a husband to possess his wife's estate for life, provided a child of the marriage is born capable of inheriting. In England, where a barony or other honour descends to a female, her husband has no rights in consequence; and where it descends to two or more females who would in the case of an estate in land possess it jointly, neither of them has a right to the honour, but it is said to be in *abeyance* until either the crown names one of the heiresses to enjoy it or all but one become extinct. In Ireland there does not appear ever to have been such a peerage as that by writ—at least, if there was, the writ pointed out who should succeed, and in no case have females been heirs to such peerages.

Whatever power belonged to the feudal baron, in respect of his military authority, and his judicial functions within his own districts—whatever he possessed of weight or direct influence as a petty sovereign or chief—has, of course, been taken away by the gradual disuse and final abrogation of the feudal law, the remains only of which can now be any where traced. But it lasted so long in full vigour all over Europe, that the habits of men were formed by it; they moulded all their ideas upon it; they acquired feelings and entertained notions intimately connected with it; and those habits of thinking have universally survived the system out of which they grew. The pride of high rank, and the submissiveness of inferior station remained, and became a part of the nature of men in all the countries once feudal. The devotion of the vassal to the lord continued long after the relation between them had ceased to exist; and when nobility was conferred by the sovereign unconnected with land, all men applied both to those who received it and the descendants who enjoyed it, the same feelings of respect which they had formerly rendered to their feudal chiefs. The sense of duty, if not allegiance, to superiors, had grown into a settled habit in the minds of all. A man of rank at Rome was one whose ancestors had been senators or consuls, and who had himself a right to be chosen into the senate, and to keep statues of his forefathers in his house. If he distinguished himself in the station to which he thus had better opportunities of arriving than others, he was respected by his fellow-citizens; but as merely having rank and statues, he exercised no sway over the minds of men; he claimed no

respect for himself; no free citizen of the plebeian order looked up to him or stood personally in any awe of him. The feudal relation left a very different impression behind it. The habit of looking up to rank and station, of confounding them with merit, of being overawed in their presence, of valuing nobility as one of the first of goods, of deferring to men clothed with it, of looking down on everything ignoble—became universal. Meanness, subserviency, timidity, in one part of the community, was met by pride, insolence, and arrogance in the other. Persons of rank regarded all beneath them as of an inferior nature; while persons of none looked up to their superiors as more than ordinary mortals. These feelings are mixed up with the whole nature of men in modern times; and while the ordinary run of the people are never freed at all from their influence, even the philosophical few who pass for having emancipated themselves feel their force at every turn, and confess by their conduct how much more powerful nature is than education, or rather how much more powerful habit is than reflection. It is, indeed, difficult to describe the prevailing and universally searching influence of the feudal ideas in all the habits of life. The very language in feudal communities, the mere forms of society, are become fashioned according to those ideas; and there is hardly a child that is brought up in any station who, before he is seven years old, has not begun to look upon grandees as superior to other men.—We may shortly observe upon a few of the features, not merely of modern society and polity, but of men's characters and habits as influenced by feudal institutions. But two important considerations must always be kept in view during this inquiry; the one that a great security for the peace and good order of society has resulted from deference to mere rank,* especially in ages when the people were little improved; the other, that the worst effects produced by feudal habits are not too high a price to pay for the escape from despotism, and its debasing influence upon national character—an escape which we mainly owe to the genius of the feudal system.

1. The establishment everywhere of a privileged class, and the descent of privileges in families, contributed to implant the ideas

* The deference due to those classes who, by their circumstances, are enabled to acquire a real title to respect, falls within a different description: that deference is paid to merit, intrinsic itself though accidentally obtained. It is this merit which in truth forms the subject of Mr. Burke's panegyric on Aristocracy—a panegyric not exaggerated if so directed.

of assumption and subserviency universally in society. In no other scheme of policy was this institution of aristocracy ever so regularly preserved; and it had one peculiarity of an important as well as a preposterous nature. Offices of high trust, requiring both capacity and integrity, were hereditary in the feudal kingdoms. Can anything be more absurd than the notion of an hereditary Judge? The chances of profligacy, dulness, indolence, ignorance, imbecility, are all overlooked; and a person is allowed to determine upon the lives and properties of his fellow-citizens, because he happens to be the son or grandson of a particular marriage. In England and Scotland, where many such offices were formerly hereditary, even the Judges in the last resort—those of the Supreme Court of Appeal—are still, by the rules of the constitution, hereditary; and the mischiefs of this are only obviated by the practice of the Peers at large seldom interfering, but leaving the decision of causes to a few of their number who have been lawyers by profession. Nevertheless, occasionally, though rarely, the others interfered in former times; and used their privilege to the advantage of connexions of their own who happened to be parties before the Court of Appeal.* In a manor in Essex, at this day, the power of appointing Justices who have criminal jurisdiction over a population of 5000 souls belongs to whoever may purchase the property. It was lately possessed by a city merchant, who might have failed, and his assignees would at first have named the judges, and would then have sold the power of nomination by auction to the highest bidder, for the benefit of the bankrupt's estate. It is not above a century since the hereditary chief criminal Judge in Scotland sat upon the trial for his life of one who had killed a clansman of his Grace.

As nothing but habit could reconcile men's minds to the absurdity of such hereditary office-bearers, so their becoming accustomed to it must inevitably have impressed upon them the most gratuitous and perverse notions of the virtue of high rank. The absence of nobility and ancient descent in some countries, as North America, is said to give an excessive value to it in the eyes of the inhabitants. But much less pernicious consequences are likely to result from thence than from their easy submission to the capricious will of the multitude, and their proneness to court

* The most exemplary abstinence from all such interference has marked the conduct of the Peers in modern times.

by unworthy compliances the power of mere numerical superiority.

2. Landed property having such prerogatives and immunities attached to it, and conferring the only estimation recognised in the community, acquired an exaggerated and almost exclusive value; and all connected with its ownership became invested with peculiar claims to respect. The feudal aristocracy was an adjunct of land. Hence the ideas so inveterately rooted in modern Europe of the superiority of landowners above men as rich, and as well educated, and as well bred, whose property comes from other sources, or whose income is derived from trades and professions. The effects of this prejudice are still felt far and wide in the society of every country at this day. It gives an undue preponderance to what is called the landed interest everywhere; and it makes merchants and professional men always seek alliances with that body, and desire to take the earliest opportunity of belonging to it. This prejudice is further aided by the more solid advantage which real property possesses in its greater security against total loss—against fluctuation of value that property is far less protected.

3. The feudal aristocracy was not only landed but warlike. The barbarous manners and tastes of the barons disdained, like those of their German ancestors, any profession but that of arms, as they knew no wealth but that of the soil. Hence the arts of peace were everywhere despised and discouraged. Mercantile occupations continued till nearly our own times to be almost everywhere but in England looked down upon as unbecoming a gentleman; and even with us at this day men of rank very seldom engage in them. When an old French noble, from poverty, wished to embark in trade he lost all his estimation for the while, and gave up his sword, as if he had committed some offence that made him unworthy to wear it. Upon quitting his commerce he received it back, with certain formalities, which were supposed to wipe out the stain contracted by the unworthy occupation he had for a time betaken himself to. In some countries, lawyers, in many, physicians, are not admitted into the highest society;—nor were they in England formerly unless in particular cases: and at this day no one is ignorant of the feelings entertained in some portions of society towards persons who are engaged in the honest pursuits of trade and manufactures. The example of the Romans has sometimes been cited, to show that contempt for the arts was

not peculiar to the feudal times: and undoubtedly trades and manufactures were looked down upon by the Romans, at least in theory. The physician too was always a Greek, and, to a certain extent, depressed in society. Nay, even the Greek philosophers and poets who were brought to Italy as slaves and afterwards often manumitted, were still treated with much real disrespect. Even Cicero, who in his public addresses and his philosophical writings speaks most highly of them, in his private letters is a little fond of the term *Græculi homines.*

4. The descent and the privileges of nobility in feudal countries do manifest violence to all natural feeling. If any sentiment is more universally implanted in man than another, or founded on more natural principles, it is the respect paid to age, and especially that of children towards their parents. Nor can any nation be found so absurdly constituted as to let its institutions, by any possibility, reverse this order of natural sentiment. But feudal titles might and often did, and at this day still do, descend to the son through the mother, so that the father is the person of inferior rank. There have been three or four instances at a time, of sons sitting by descent in our House of Lords while their fathers were Commoners. But yet more important is the rule of primogeniture everywhere established by the feudal principles; and the law of entail which arose out of it has greatly increased its mischievous consequences. The endowment of one son with a large income and extensive privileges, to the exclusion of the other children, has had the effect of both keeping land in great masses and extending in every quarter the aristocratic influence and character.

5. The very names invented for distinguishing men's rank are the means of continually keeping the superiority of one and inferiority of another in the eyes of all. The noble cannot be spoken to or spoken of as other men are; and this has led to somewhat ridiculous modes of expression among all ranks. —"Your grace"—"Your lordship"—"Your excellency"—"Your highness"—"Your serenity"—are appellations reserved in most countries for persons of rank—though in some, as in Italy, many of them are employed universally. But in every European nation, instead of the pronoun "*thou*" there is a general use of the plural "*you*" as more respectful; and in most nations that is not enough, and "*he*" or "*she*," or even "*they*,"

are the words employed—meaning, "*your lordship*" or "*their lordships.*" Such forms of speech appear to have had their origin in the Lower Empire; but they were greatly improved upon and extended in the feudal times.

6. The state of submission in which each person was held to his superior had considerable influence in softening the manners of the age. Despotic governments as we have already seen, are marked in the progress of society by great refinement and politeness, from the habits of restraint which men acquire where fear is the prevailing motive with them at all times. In the circles of the feudal lord, all were under the influence of some restraint, and as his power became almost boundless, this influence increased. To the union of constraint and obedience with the bravery inculcated by constant engagement in warlike pursuits, was added the superstitious veneration for the clergy, and the scrupulous observance of a religion full of ceremonies and penances. The regular occupations of business, too, being altogether disdained, much of the time of all freemen was spent in idleness, and the occupations of love became a part of all men's pastime. All these circumstances introduced a strange mixture of warlike independence with civil submission, religious enthusiasm, and personal courtesy. But the warlike propensities predominated; the superstitious next had their place, and both these found a vent about the latter part of the eleventh century, in the most singular enterprise and the most extensive that ever any people or rather collection of nations engaged in—we mean the Crusades or expeditions undertaken by all the European nations to free the Holy Land from the Turks. The pilgrimages to Jerusalem which had become frequent, half a century earlier, had brought back great complaints of the oppressions sustained from the Infidels; and a fanatical hermit known by the name of Peter, going round with a crucifix in his hand, preached everywhere the duty of a combined operation to rescue the Holy City and sepulchre from their hands. The Pope and a Council authorised the proceeding, declaring the preaching of the hermit to be prompted by inspiration from heaven. Men every where "*took the cross,*" as it was called, and marched towards the east. Barons sold or mortgaged their lordships to defray the expenses occasioned by the project; and though at the first no kings joined it, yet most of the European princes afterwards took a part, excited partly by superstitious zeal, and

partly by the conquests which the first crusaders made. For their numbers were overwhelming, being reckoned in the whole of the two centuries during which the madness prevailed, at nearly six millions—the fury of their onset was such as might be expected from fanatics trained to a military life, and led on by their priests as well as their feudal lords—and accordingly they not only possessed themselves of Palestine, of Syria, and the neighbouring countries, where they introduced the feudal system in its extreme rigour, but also occupied Constantinople, and made a Count of Flanders emperor of the east for half a century. In the end the power so acquired, having no solid foundation and being supported by little wisdom, fell to pieces; but we trace its nominal remains in the titles of King of Jerusalem, and similar additions still borne by some of the sovereigns of Europe—among others by the king of Sicily.

Those strange expeditions had an important influence upon European manners and institutions. For the present we have only to remark their effects in extending the spirit of civility and courtesy, which the feudal aristocracy had already begun to diffuse. Those who did not join the crusades were nevertheless animated by similar feelings, not of a sordid, but of an enthusiastic nature. It was no longer the savage love of plunder or the necessities of providing subsistence, the mainspring of the barbarian's inroads, that excited men to warlike enterprise. The religious feeling which led them to Palestine had its origin in a pure though perverted sentiment; it was the same which had formerly made pilgrimages a duty and a pleasure; but it was now joined with military valour; and though connected with the hope of reward, it was hope of reward in another world. The crusader was the pilgrim armed; adding to the patience and fortitude of the wayfaring man, the active courage of the soldier fighting for religion's sake. Many doubtless joined the train from more sordid motives, and love of temporal conquest engrafted itself on spiritual zeal; but the stock was of a kind more or less sentimental. Hence they who did not take the cross partook of the spirit which filled the crusaders, and their activity and enthusiasm was exhausted upon works of a kindred nature at home. They went about redressing grievances; freeing those whom tyrannical individuals imprisoned and oppressed; offering their services to rescue women who were ill used and detained in captivity; volunteer-

ing to protect monks and priests, whom lawless men, presuming on their defenceless state, insulted or otherwise ill used. This was the origin of Chivalry, and in its pursuits those naturally joined who returned from the Holy wars in the East. At first those enthusiasts, who being mounted in order to go round the country after adventures, were called in French *chevaliers* or cavaliers, in German *ritters* or riders, in English *knights*, acted without any authority from a superior; but having among themselves adopted a kind of rule or order, they admitted candidates into their class as they found that each had proved his valour and devotion by some act of bravery—so that a knight could make a knight or confer knighthood. This custom easily united itself to the usages of more regular military operations, and ended by becoming entirely of a military description—so that commanders first, but afterwards princes alone, admitted men into the classes, and founded various orders with fantastical decorations of dress—as ribbons and stars—a source of much influence to them because greatly esteemed by their subjects. Nothing tended more to keep up the aristocratic spirit when the strictness of the feudal regimen began to relax; and decorations and titles of knighthood have been almost as much prized in Europe as titles of nobility. Beside the personal decorations by ribbons and stars and collars, badges were worn representing the shields and helmets originally borne in battle and still in use; so that the by-stander was reminded that the person he saw, though unarmed, was a warrior of rank. These were called *coat armours*, and often consisted of emblems or memorials of some actions in which the bearer or his ancestors had been engaged. The right to bear them on the person or furniture was given by the sovereign. The rules by which they were distributed and the methods in which the devices were contrived became reduced to a kind of system—the parody upon and mockery of a science: The knowledge of it is still greatly valued by many persons, for its own sake—by others for the light which it throws on legal and historical antiquities; and the depositaries of it are a body or college of men called *heralds*, whose claims to respect should by no means be measured by the fantastical names which they assume—as garter king at arms—lord lyon king at arms—blue mantle—red dragon, and so forth.

7. The chief benefit conferred by the feudal scheme upon the

character of men was one of the greatest value—the habits of fidelity which it formed. The relation of lord and vassal taught the duty to the one party of protecting the weak, and to the other that of repaying protection with allegiance. The character of treachery and inconstancy which distinguished the Romans of the latter ages, when corrupted by luxury and slavery, became wholly changed and reformed under the new system.—The corrective afforded to the effeminacy of their habits, by the manly courage of the northern tribes, is inaccurately ascribed to the feudal policy as another of its advantages. This was manifestly a consequence only of the hardy character of those nations, and altogether independent of the peculiar form into which their government settled after their conquests. But unquestionably the feudal habits and chivalry have elevated the tone of moral feeling in modern times, refining men's sentiments and implanting a sense of personal honour.

8. The last effect which we shall mention of feudal customs upon the manners and habits of men is that sentiment of veneration for past times which they encourage. The Romans had a superstitious regard for their ancestors and their usages; it was inculcated by their rulers; and, though carried to excess, it was rather a disposition to be guided by the wisdom and follow the example of those who had gone before than an attachment to mere antiquity. But out of the feudal system and its observances, and more especially out of the customs of chivalry, there grew a devout veneration for all that was old and established. Antiquity of family, the having been long settled in one place, the possession of ancient castles, in which much slaughter had been done and many generations of barbarians had revelled, became things prized beyond all others by most men; and even among those who cared little for the things themselves, a sentiment of interest in old manners and habits, what is called *romance*, grew up and spread, being united with poetry and other works of fiction. This taste still prevails, and to the detriment of society. There would be no harm done, but great good, if it only united with the dictates of reason to inculcate a becoming respect for the authority of the wise, a wholesome attention to past experience, and a prudent fear of rash innovation (see ch. 2); but it does far more; it consecrates some of the worst feelings of our nature. It covers over with a garb of elegance and an outside of splendour, borrowed from works of genius,

the atrocious love of war, and it obstructs improvement, by making whatsoever is old and long established venerable. Men have thus come, in all countries where the feudal system once prevailed, to regard the trade of war as the most honourable and interesting of occupations; and they have also acquired the habit of considering the institutions which were planned when the world was ignorant and inexperienced as models of wisdom. A kind of blunder in language, happily exposed by Lord Bacon, has tended to increase this delusion; for we speak of old customs and the wisdom of antiquity, as if they who went before us were older and wiser than ourselves, and the world of to-day was in its infancy compared with the world of five hundred years ago; whereas the contrary is the truth, and they who now inhabit it are the older and more experienced.

It remains to consider the decline and downfall of the feudal system, which has long ceased to exist in any part of Europe—although its effects upon institutions and upon the habits of men are still very perceptible, and only wearing out by slow degrees.

The earliest opportunity which the Crown had of crushing the licentiousness of the barons was by resuming improvident grants made to favourites in times of embarrassment. This, however, was difficult, and seldom succeeded. Charlemagne, by his genius and vigour, reduced the barons of his extended dominion into some order, and established a uniform system of power; but his decease put an end to this consolidation, and for two centuries the feudal anarchy and violence continued to prevail, to obstruct all the arts of peace, and to prevent the establishment of any regular government. By degrees, however, military activity was sure to exhaust itself when nations were so far settled that extensive foreign conquest could no longer be effected, and the expeditions undertaken were confined to a comparatively small number of persons. Industry began to thrive, and wealth was accumulated by persons engaged in peaceable pursuits. These, being unconnected with landed property, lived in towns. Afraid of depredations, the inhabitants formed a connexion with some powerful baron, close to whose castle they found it convenient to build their houses, for the protection it afforded. Sometimes the town originated in the habitations of those employed to work for the castle. It was usual for the barons to grant charters to such towns exempting them from tolls and other duties, and giving them various pri-

vileges which the feudal power enabled them to confer and to make good. But by degrees, as the wealth of the towns increased, the barons violated their promises of exemption or favour, and oppressed them with impunity. The feudal rigour was exercised over the townspeople as much as if they had been vassals holding lands of the baron. They suffered under many of the feudal restraints and exactions, and under some peculiar to their own condition. The prince was then appealed to, and it suited his purpose of restraining the barons to take part with the inhabitants of the towns. In Italy, where commerce first began to make considerable advances, the towns rose to early importance, and in several instances making head against the neighbouring lords, defeated them, and took possession of their castles and territories. This was the origin of the flourishing republics which some of those Italian towns established. Other towns obtained from the Emperors of Germany, who had a very precarious dominion over their Italian provinces, charters of incorporation with powers of municipal government, and above all the important power of administering justice in their own courts. In the twelfth century the kings of France introduced the same practice, beginning with the grant of what were called *charters of community* to the towns within their own domains. The abolition of servitude, and the power to manage their own affairs, and to administer justice by magistrates elected by themselves, was the foundation of all these charters. The municipalities likewise had the power of taxation for local purposes, and of arming themselves for defence; they were liable, however, to be called out by the Sovereign when he had occasion for their services, though under officers of their own choice. The grant of such charters became general over Europe; and the crusades rendered an important aid to the Crown both in lessening directly the baronial power and in augmenting the numbers and influence of the towns. For the expense of those expeditions occasioned many to sell their lands, and the crown commonly became the purchaser. Towns which had acquired sufficient wealth sometimes purchased their entire freedom, together with part of the lord's domain. Lords, dying or killed on the expedition, left their fiefs to escheat to the crown. The vast numbers of persons who followed the crusaders, from their intercourse with foreign nations brought back a taste for articles the produce of other countries; and commerce was still further increased

by the difficulties experienced on the land journey causing the subsequent expeditions to be undertaken by sea. This turned at first to the profit of the Italian maritime towns; but it ended in making naval commerce everywhere more familiar. Indeed the mere demand which vast bodies of men setting out on a long expedition necessarily occasioned must of itself have encouraged industry, and given a stimulus to improvement wholly unprecedented in those rude ages. Accordingly, the eleventh and twelfth centuries witnessed a rapid and general rise to importance in the towns of Europe, especially those of its southern states.

When the towns thus increased, and were protected against the barons by the King, they naturally took his part, and diminished the influence of the feudal aristocracy. They also furnished supplies of men to the Crown, which had hitherto been dependent upon the feudal retainers for its armies. A still more important aid was the money which they enabled the prince to raise by benevolence and loans; and this again led to a further augmentation of the municipal influence, and of its weight as a counterpoise to the barons. For it was a principle of the feudal system, and one which has proved incalculably beneficial to liberty, that the subject cannot be taxed without his consent in the council, or parliament, or meeting of the states of the nation. The barons, in their struggle with the Crown, imposed this restraint for their own protection and that of their dependents; but it could not be established thus far without extending to the whole community. When, therefore, the lesser barons and freeholders no longer sat in person, but sent deputies to represent them in those assemblies, the inhabitants of the towns were soon allowed to do the same; the King even desired their attendance, that he might thus make the towns contribute; and these deputies formed, together with the deputies of the freeholders, the Commons, or third state. They were summoned to parliament in England at least as early as the end of Henry III.'s reign,* probably earlier; and they soon after sate with the other or county deputies, as we have seen, in a separate chamber. It is easy to perceive how mightily the influence which they thus acquired must have tended to curb that of the barons, to free the Crown from feudal thraldom, and enable it

* The meeting summoned by Montfort and his accomplices (1265), in the great rebellion against Henry and his son Edward, was the first regular representative body.

to establish a regular administration of justice and police through the country. In the first ages of feudal tyranny the interests of the king were the same with those of the community at large—the destruction of the power of the barons in their several lordships, the abolition of the right of private war, and the establishment of a peaceable and regular government.

The foundation of order being laid, the progress of wealth and commerce in every country silently and gradually worked the change which finally extinguished the anarchy of baronial power. In the thirteenth century the feudal system was on its decline, and in two hundred years more it had wholly ceased to exist in its worst shape. Remains of it, however, continued to obstruct improvement, and to keep alive local oppression more or less in various parts of Europe for many ages. In England they were only swept away, in 1678, by the acts passed during the Commonwealth and renewed after the restoration; in Scotland they were extinguished after the rebellion of 1745; while in France it was reserved for the revolution of 1789 to relieve the country from these oppressions, the badges of a still worse slavery, which had been mitigated, but had not ceased; and in Germany and other parts of the north of Europe, the remains of feudal times exist to this day, awaiting the scythe of reform, which will, as all good men hope, be wisely and temperately, though effectually, applied to all grievances and abuses.

But we have seen how the more remote and indirect effects of the system have survived the destruction of the fabric itself. These have been so deeply rooted in men's minds and habits, that they can only be effaced by the slow and silent progress of education. They are exceedingly pernicious; they obstruct the most important benefits which society might receive from general improvement; they are the foundation of aristocratic influence, habits, and abuses all over Europe; and they tend at once to spoil one class of society, and to degrade the others.*

* Some of the doctrines contained in this chapter, like some of those in the last, are matters of controversy; *e. g.* the original composition of the feudal parliament, particularly as regards the lesser barons and the voters in towns. The advantage of aristocratic institutions is treated of in their connexion with monarchy, Chapter X.

CHAPTER X.

CONSTITUTIONAL MONARCHY.

Origin of monarchy—Of European monarchy—Its rise out of the Feudal system—That system, how far to be traced in other countries—Africa; South America; Asia; Turkey—Differences in all these cases—Reasons why no free government arose out of these systems—Operation of the Feudal system in Europe—Hereditary nobility—Rise of the towns—Assemblies of states—Power of taxing—Judicial bodies—Diffusion of knowledge—Public opinion—Privileged orders, the main distinction of European Monarchy—Their resistance to the Crown—Their responsibility—Their weight with the people—Their services to the Crown and the State—Their abuse—Sweden; Denmark; Hungary; Poland—Their resistance to improvement—Burke's doctrines—Natural Aristocracy—Progress of the Crown's power—Frees itself from the feudal tyranny—Joins with the nobility—Puts down or disuses popular assemblies—Employs standing armies—Gains the clergy—Error of Montesquieu—Effects of monarchy—Tendency to despotism—Personal caprice—People sacrificed for princes and nobles—Tendency to war—To extravagance—Military force—Monarchical arrangements in all departments—Primogeniture—Entails—Arbitrary proceedings—Influence of monarchy on national character—Vigour of administration—Great benefits of hereditary succession.

THE explanation of the Feudal System was necessary before we could proceed to examine the principles of Constitutional Monarchy;* for the only instances which we have of that form of government are to be found in the countries where the Feudal System was once established, or where its principles were adopted; and as its arrangements, and the habits to which it gave rise, were intimately connected with the formation of monarchy, so they still everywhere influence its structure.

The history of despotism and of monarchy is the same in the earlier stages,—those which are removed beyond the sphere of authentic records. After the patriarchal government had been extended and given birth to a chief's dominion over his tribe,

* Constitutional Monarchy, or Monarchy as contradistinguished from Despotism, may be either pure or mixed. But the term Constitutional is frequently used to designate mixed, as contradistinguished from pure, Monarchy of the European kind.

established through deference to his personal merit and a regard for the common convenience of its members, various accidents combining with the natural love of power enabled individuals to extend their authority beyond the occasions which gave rise to it, or the degree in which it was necessary; and families became afterwards vested with the influence which personal qualities alone had at first bestowed. No instance of absolute power is probably to be found in rude states; even where superstition enables the priest to usurp it he must divide it with the warrior. In process of time, however, a union of the two influences, temporal and spiritual, seldom fails to establish despotism; and it is only in the history of the northern nations, and owing to the steps by which they made their settlements in the provinces of the Roman Empire, that we can find a transition from the limited power of the petty barbarous chief to the equally, and afterwards still more, limited power of the king whose dominions were extensive, and whose people had advanced in civilization. In other quarters of the world the power of the barbarous chief was for the most part extended with the dominions of the tribe; and where it was originally despotic the progress of conquest confirmed, but never restrained it. Among the nations of the West of Europe the case was different. We have shown how the feudal lords became more than a match for the prince, and how the latter by degrees reduced them to subjection, but with the help of the inferior ranks of the community, who were rising into some kind of influence. The universal history of monarchy in Europe, therefore, presents two eras for our consideration:—first, the reduction of the aristocratic and landed power by the rise of the commercial and middle classes; next, the union of the remaining aristocracy with the crown, to keep the people within bounds, and, in the great majority of instances, to deprive them of all direct interference with the functions of the government. This leads us at once to the grand distinction between despotism and constitutional monarchy—between the governments of the East and of Europe;—and this distinction is entirely owing to the feudal process, of which we have traced the history.

It is remarkable, indeed, that though this process is peculiar to the European states which arose on the ruins of the Roman Empire and its conquest by the Northern nations, something

nearly resembling the territorial distribution of the feudal system may be traced in other parts of the world. There, however, it never was followed by the other arrangements of the system, and it produced no lasting effect on the political institutions of those countries. It may be remarked, too, that many writers have imagined that they had discovered traces of the feudal plan where hardly any resemblance to it can be perceived; while, in some instances, it has been supposed to exist without any sufficient evidence of the fact. Thus, in the African kingdoms of Congo, Angola, Loango, and Benin, the territory is said to be divided into a number of lordships, formerly independent, but now united under one head. The lords are represented as so far dependent on the king that they pay tribute and furnish troops. The king is described as the owner of the land, which is granted out for life, and at the occupier's death falls again to the crown. Each occupier, we are told, is bound to attend the summons of the king, and to appear armed, so that a vast force can always be brought into the field. Each chief, too, is judge in his own district, and an appeal lies from his decisions to the king. But all this partakes too much of a regular system to exist, as it is described, in such barbarous districts. The absolute power of the princes, who rule with the most ferocious cruelty over the people, and regard no right whatever of property or person, may undoubtedly place the land as well as its cultivators at their mercy. So far the account is likely to be true: anything beyond this has probably been supplied by the fancy of the relators, who never had the means of fully examining the state of those countries.

The same remark applies to other perfectly rude states, in which ingenious men have been prone to fancy they could discover feudal resemblances. But it applies less strongly to the case of Mexico, which, on the discovery of America, was subject to a very regular government, although otherwise in so low a state of civilization as not to be possessed of any written language, or have the use of iron or of the domestic animals. We cannot indeed consider the subordination of the frontier or conquered districts of the empire, which were held by vassals of the Crown, on condition of paying tribute and of serving as a defence or as the means of further conquest, to be anything like the feudal arrangement; the resemblance here is far too general

and too remote. But the manner in which the chief dignitaries of the state, employed in the administration of the provinces, in the councils of the state, or in its military service, were supported and paid, does seem to approach somewhat more nearly the European plan. To each office was annexed a certain portion of land, which was enjoyed and was resigned with the employment. A few of the more eminent subjects possessed estates, which they could dispose of at pleasure and transmit to their descendants. The rest of the land in the country, however, was not possessed in severalty, but held by the inhabitants of each district in common; was either cultivated by them jointly, and the produce shared by them together, or was divided by agreements among themselves and cultivated individually, but in no case was subject to alienation. There were many serfs attached to the soil as cultivators, and many slaves for domestic purposes; but the whole people were at the mercy of the Emperor, and liable to be called upon at his pleasure for military service. The crown was elective, the chiefs choosing the successor at each vacancy; and by the union of military force with the most barbarous superstition the despotism of the government was perfect. It is clear that we have here only a faint resemblance, and in one particular, to the feudal scheme; and that it never produced any independent order in the state, because the possession of land, except in a very small proportion of cases, never was independent of the crown.

But we find a somewhat closer resemblance to the feudal tenure in the East, particularly in the southern parts of Asia, and the Tartar and Turkish conquests in Europe; for we there meet with instances of the connexion between property in land and military service, as well as the subordination of independent chiefs, which alone affords but a very inadequate ground of comparison. In Hindostan the whole country was originally under rajahs, or princes, whose territories were of various extent, and who became at different times subject to foreign conquerors, or to the more powerful of their own number. At the end of the tenth and beginning of the eleventh century the Mohammedan empire of Gazna was founded by conquest;* and it lasted for about two hundred years, when it was by the like means overturned,†

* Mahomet Gazni. † Gengis Khan.

and the Mogul Empire was founded, which at different times extended over nearly the whole peninsula. The Marhatta Empire was founded by the conquests and influence of one of the rajahs (Sevajee), in the latter part of the seventeenth century (1680). In the eighteenth, Mysore was erected into a kingdom by a Mohammedan adventurer (Hyder Ali). Now, in all these dominions the sovereign had under him a number, more or less, of tributary rajahs, owing him allegiance, serving him in war with their forces, and yet exercising supreme power each within his own principality. Thus, in the Mogul Empire there were at one time a hundred rajahs subject to the Great Mogul; and in the reign of Aurungzebe, in the seventeenth century (1660), some of them could bring as many as 25,000 cavalry into the field. It may easily be supposed that over those who were so powerful, especially if placed at a distance from Delhi, the capital, the authority of the emperor was but feeble. His chief power lay in the portion of the territory near his residence, and in the part where he had himself the entire dominion without any subordinate rajahs. In the Marhatta Empire four powerful chieftains who had obtained grants of land, called Jaghires, under the Sovereign Sevajee and his successors, made themselves really independent; and thus the chief, the Rajah of Sattarah (whose authority was usurped by the Peishwah, his minister), was reduced to little more than a nominal dominion over the other four,* each of whom was absolute within his own territory. The nominal head of the federal body represented it in its intercourse with foreign powers, and could make no treaty affecting the others without their concurrence; but they, as well as he, pursued their own policy individually both in their domestic concerns and in foreign alliances, making peace or war with each other and with the Peishwah as they pleased; and were sometimes allied with the English government against one another, though generally against us, our policy being to support the Peishwah. The resemblance between this empire and the Germanic body in these respects is manifest. Thus the Empress Queen, the head of the confederation, was in hostility with Prussia and with Bavaria during the war of 1743, and had Saxony for her ally, while England also joined her, and France took part with Prussia. In the seven-years' war (1756), Prussia

* Indore (Holkar)—Ougein (Scindiah)—Berar—and Guzzerat (the Guickwar).

being again her enemy, she was joined by Saxony and by France, while England took part with Prussia. But the Eastern policy approached a good deal nearer the European in the mode of granting the land and the services rendered by the grantees. The chiefs (Sirdars *) to whom the grants (Jaghires) were made were bound in return to serve the Rajah, their sovereign, and to bring a body of men with them into the field. Each raised his troops among the inhabitants of his own Jaghire; and the grantees of the great districts, who erected themselves afterwards into independent rajahs, had, by other grants from themselves, sirdars under them, but persons of no weight, because their portions were scanty, and this kind of sub-infeudation went no further; so that the whole people were under the absolute power of the rajah, and not of the subordinate sirdars. The cultivators or peasants (Ryotes) had no property of any kind in the soil; they possessed the district in common, and the produce was collected and shared according to certain rules, a large portion being received by the Zemindars, who represented the owner, whether prince or subject. The tenure of all these grants appears to have been somewhat precarious; for, although the lands were for the most part suffered to remain in the hands of the Jaghiredar and his family, the prince was understood to have the right of resumption, and, unless in the few cases where they were of such extent as to enable the Jaghiredar to assert his independence, it was by no means unusual to resume them. Other grants were made, called Serinjaumy, of lands, to support the troops in the service of the state, and these were constantly changed, passing from one to another at the pleasure of the prince. In all these arrangements we trace a distribution of land in connexion with military services, and yet no further progress like that of the feudal tenures was made in the East. The Kishtaraya, or military caste, those who were from father to son soldiers, were the enslaved subjects of the superior chief, or Rajah, and owed no allegiance to the sirdar on whose land they lived. Indeed, where they only cultivated in common, without

* Whether the Zemindar was owner, paying rent or land-tax, or only collector, has been much disputed. That he was not the owner, but that the property was in the sovereign, is maintained on the authority of *Anquetil du Perron; Colebrooke's Digest*, i. 460; *Laws of Menu*, ch. viii.; *Scott's Translation of Ferishta*, ii. 405; *Dow's Trans.*, ii. 148. Sir William Jones maintains the contrary opinion. —*Works*, iii. 511; and *Rouse, Dissertation on Landed Tenures.*

any separate possession, much less any property in the soil, they could owe little allegiance in respect of it to the owner, whether we regard as such the Sirdar, or Zemindar, or the Rajah. Their obedience was to the power or force of the government, that is, to the Rajah.

In the countries of further India, or India beyond the Ganges, we meet with feudal traces also, but producing nothing like our European system.—In Siam the officers of state are paid by the possession of land, which reverts to the crown on their death or dismissal.—In Malacca, the southern portion of that peninsula, travellers have described the people as "governed by feudal laws"—"that capricious system," says one of those writers (M. de Poivre), "which was conceived for the defence of the liberty of the few against the tyranny of one, while the multitude are subjected to slavery and oppression by a chief who has the title of King or Sultan." The land granted to individuals is said to be only for life, and on condition of maintaining a certain number of troops for the service of the king.—In Pegu and Ava we have seen that the public functionaries receive part of the perquisites of their offices, paying over the remainder to the government, and that those under them are paid in the same way; nay more, that land is held by the grantees on condition of paying a share of the produce, and also of doing military duty in war; and even held by others under them upon similar terms. But though the sub-tenants in the latter case are termed the slaves of the holder, as he is of the sovereign, the military service is not rendered to him as the rent is, but to the prince directly; so that the relation of vassal and sub-feudatory does not, properly speaking, exist.

In Turkey we find a similar state of things, only that there is still less the appearance of sub-infeudation. Land is granted to persons in portions of various extent, called *Timar* if estimated at 300 and less than 500 acres, and yielding under 40*l.* revenue, and *Zaim* if estimated at 500 acres or more. The persons holding these lordships are bound to serve personally in certain cases, and in all others to furnish cavalry, called *Timar-Spahis** and *Zaim-Spahis*, according to the amount of the

* *Spahi* means a horseman or horse-soldier. The *Timar*, or *Zaim*, is granted to persons having a claim from service, or from favour, and esteemed an honorary distinction. Indeed some derive *Timar* from the Greek word for honour. The Timariot is the grantee of the Timar.

tenement, one horseman being furnished for each six pounds of revenue. But the troops thus raised by the Timariots and Zaims are officered by the government, and owe no kind of allegiance to the landowner who supplies them; for, though they are in a servile condition under him, they have only the kind of interest in him that the slave has in his master; and would certainly, in any contest between that master and the prince, be much more likely to take the part of the latter than the former. In the seventeenth century the whole number of the troops thus raised by the Timariots and Zaims did not exceed 100,000, although the population of the empire at that time certainly exceeded twenty millions. In 1798 they were 120,000.

Now, in all these instances, both in Asia and the Levant, there is this resemblance to the feudal system, that land is given on condition of military service; but there has never been formed, in consequence of the tenure, any order of men capable of restraining the power of the crown. Several circumstances appear to have prevented this result of the feudal tenure from being produced in the East.

In the *first* place, the power of the prince at first was more absolute and better established. He did not come into the country with a band of companions like the German warriors, heading an expedition for the common benefit of the tribe; but he invaded with a powerful army, over whom his command was despotic. Hence the portions of land which he distributed were incomparably less considerable than his own; and he retained so great a preponderance, that he resumed the grants at pleasure, nor ever gave them even for life, much less inheritably, to any who were likely to prove at all formidable to his authority. In the few cases where a different course was pursued, as among the Marhattas, the parties who obtained larger grants not only curbed the power of the prince, as the European chiefs did, but set up for themselves, and became independent.

Secondly; the connexion of chief and vassal never could be general, because there was no sub-infeudation such as we had in Europe. The men raised were raised for the sovereign, and regimented by him. Even where they were commanded by the owner on whose land they lived, they were probably regarded not as his slaves, but as those of the prince. But suppose them to have been actually, as under the Timariots and Zaims in Turkey, his

slaves, and suppose their appellation in the Birman empire of slaves to the landowners really expressed their condition—still this relation of master and slave is very different from the relation which arose out of the feudal holding. The European baron was regarded by his sub-feudatories as the source of their property, and the whole security for their possessions depended upon the continuance of his power. His influence was much less over the villeins, at least after they became attached to the soil, because their lot could not be materially affected by what befell him. But his free vassals did not regard him as slaves do their masters; they considered their own interest as bound up indissolubly with his, and they made his cause their own. The eastern baron, where he has any direct power over the peasantry who live on his property, has always possessed it as the owner of slaves, whose situation would not be altered whatever became of him, and who could have no feeling of attachment towards him. It is not likely that, in the greater number of West Indian plantations, the negroes would take the part of the master in any rebellion against the state which he might engage in. The attachment would be stronger, generally speaking, to the authority which was more remote and less felt. The hold which mere fear gives was by no means that species of influence which enabled the feudal chief to assert his independence—an influence compounded of personal attachment and views of a common interest, at least as much as of apprehension from the consequences of displeasure. The very circumstance of a gradation being preserved among the different classes of landowners was most important to their influence. Had there only been three parties in the struggle for power—the crown, the barons, and a body of serfs, or even of free peasantry—the baronial influence would have been much less than it came to be when under the baron there were lesser freeholders, who again had others inferior to themselves, yet all possessing a certain weight, and all having some power over the mere serfs or other cultivators.

Thirdly; In the East the cultivators under the landowners were so low in condition,—often in a state of personal slavery, often without any possession of the land in severalty, always in extreme poverty,—that they never could be admitted to any share in managing the concerns of the district in which they lived, either as regarded the administration of justice or the

regulations of police. All therefore looked to the officers of the government, and were dependent entirely upon them. The superior landowners in some countries, as the Zaims in Turkey, were allowed to act as justices; but they too held their jurisdiction in close dependence on the state, and it was not recognised as a right inherent in the owner of the soil.

Lastly; we must not wholly pass over the physical circumstances which distinguish the Eastern from the European monarchies—the softness of the climate and easy fertility of the soil. This has a natural tendency to prevent men from becoming so industrious as the necessities of a less genial position require. The industrious habits of men in Europe, and above all their addiction to maritime and mercantile pursuits, which are wholly inconsistent with a state of abject slavery, have co-operated with the original relation between the conquerors and their warlike companions, and with the practice of sub-infeudation, to prevent despotic power from establishing itself, and to render the progress of society and of government extremely dissimilar in those different parts of the world.

The checks upon the power of the monarch in the East have, as we have seen, proceeded chiefly from the religion of the country. In some countries the institution of *castes* has aided the influence of religion, with which indeed it was closely connected. Thus in Hindostan the prince belongs necessarily to the caste of warriors which nevertheless is by the religion and popular belief inferior to the Brahmin, or lawyer and priests, caste; so that a person of however humble condition belonging to this highest caste would be considered to suffer pollution by eating with his prince. The prevalence of such superstitions has somewhat curbed the power which otherwise would have been wholly without limit; but it must be acknowledged that their effect is of very inconsiderable importance for any practical purposes connected with the protection of the people. The operation of the feudal institutions upon the political systems of the West has been of a very different kind, and has produced results of a far higher value.

1. The first great check upon the power of the crown in European kingdoms has been, as we have seen, the influence of the nobility or aristocracy. In the East and in Russia we find that all rank not only flows from the crown, but is held at the

crown's pleasure, and that official rank is paramount to every other. No institution can prevent men from respecting persons whose family has long been distinguished for the performance of great services, or even for holding high place. But in the East those functionaries, and much more their descendants, have no kind of precedence or privilege over the most ordinary and obscure persons; nay, they are rather more exposed to the caprices and violence of the monarch than individuals in a humble station. Rank, and above all military rank, bestowed by the prince, is everything; all beside counts for nothing. There exist the monarch and his officers, through whom he acts; all the rest is a dead level. In the provinces there is the governor ruling absolutely in the monarch's name; and all the rest of the population are subject to his absolute will. No order exists between prince and people; none which has either privilege as against the former, or precedence before and influence over the latter. But in European kingdoms it has always been wholly different. The feudal lords had real power, and influence still more important, over the people and against the prince. For several ages they were more powerful than him, and extorted from him concessions which have proved important checks to the royal authority, and great protections to the rest of the community, as well as to those orders for whom they were originally intended, and by whom they were obtained. The English barons certainly cared little for the people when they obtained Magna Charta; and indeed the lower classes, then in slavery, were for the most part excluded from the benefits of a law which enacted that only freemen should have personal protection. Nevertheless, that charter has at all times been, and still is, the safeguard of the humblest man in England. If the barons had drawn the line so as to exclude every one but their own order from the benefits of the change which they were endeavouring to effect, or rather from the restoration of former liberties which they were obtaining, the crown in all likelihood would have been enabled to resist them with success by seeking the alliance of the inferior classes; as it afterwards reduced their power by making common cause with the trading part of the community. It must also be observed that the immemorial usage of the northern nations, continued under the feudal system, of giving the people a share in the administration of justice, afforded them an important security against at least gross oppression.

2. But, *secondly*, the fact of there never having existed in any of these countries a despotic power in one hand is of itself of infinite importance. At one time the feudal lords domineered over the king; at another there was a pretty nearly balanced contest between the two parties; afterwards the king prevailed, but without destroying the lords. He overpowered them and they yielded; but they were left with great influence, though broken and divided. They could no longer do as they pleased with both their sovereign and their vassals; but so neither could he do as he pleased with them; and therefore his power was also limited over their vassals. The consequence of the nobility existing, and retaining considerable direct power (such as suit-service of their vassals at their courts of justice) and of their possessing still greater indirect influence, was inevitable: the king could not crush or destroy them, and consequently was obliged to ally himself with others in order to counterbalance them.

3. Hence a *third* and still more important feature in European monarchies—the rise of the towns with their privileges. The charters of *immunity*, as they were correctly termed, were given by the great barons to free the inhabitants from personal slavery, and from feudal exactions, which were commuted into fixed rents. Originally those charters contained nothing more than such exemptions and liberations; but afterwards both the king in his domains, and the barons in theirs, added valuable privileges, enabling the citizens to administer their own affairs, and especially to administer justice, instead of coming to the lord's court. The crown granted more of such charters than the barons, to whom they were always peculiarly odious as restraints upon their power; insomuch that an abbot of Nogent, in France, terms them "execrable institutions for enabling slaves to withdraw themselves from the obedience which they owed their masters." The encouragement given by the crown to those incorporations and to the privileges of the townsmen was intended for a counterpoise to the barons; but it raised of necessity the power and influence of the people. The inhabitants of the towns so erected into independent communities had the right to bear arms, and even engage in private war, as the barons had in those ages. All were bound to stand by each other, under severe penalties and by solemn oaths. Trial by battle and other ordeal was abolished within their boundaries: regular justice in crimi-

nal cases was administered, and the law was settled for the recovery of debts. The municipalities had likewise powers of government over their subjects. Thus the towns became in some sort commercial lordships, and were a great check to the landed grandees. The nation was no longer under the latter, but divided into two classes naturally averse to each other. In some countries, as in Italy, the barons were subdued by the towns; but, generally speaking, there was only opposition and independence of both parties, of which the crown took advantage to obtain its own independence.

By degrees, the privileges enjoyed in the towns attracted the inhabitants from the country, and the increase of those communities, with the superior administration of justice which they possessed, encouraged all branches of industry. This in its turn still further augmented the wealth and power of the towns, and it was manifestly as impossible for the crown to domineer over them as it was for the barons, against whose usurpations they had been enabled to rise into so much importance. Thus the rise of the towns, while it kept the aristocracy in check, and so far aided the power of the crown, served also to prevent that power from encroaching on the inhabitants. Unless the towns were strong, they could be no counterpoise to the barons; but if they were strong the crown could not enslave them; and thus they formed a counterpoise to its power also.

4. It was not the military force of the towns only which produced this effect; their wealth had if possible a more important influence in favour of liberty. The power of taxing never was possessed but in a faint degree in the feudal times: the bulk of the crown revenue arose from its own lands and the tribute of its tenants, with some aid from payments by the lords and other great vassals. To obtain more pecuniary assistance when the expenses of war and government increased and the feudal services in war became precarious, the king was fain to ask the consent of the barons in estates, or in parliaments, or in cortes; and the wealth of the towns soon made it expedient to call them also to the same assemblies, in order that their contributions might be secured. Hence the assemblies which were held in the earlier periods of all the European kingdoms, and which, though in most of them long since disused as regular meetings, and stripped of all general legislative power, yet, by the theory of

all the European constitutions, are the depository of the legislative and of the taxing power, and by the practice of most of them are occasionally convoked when money or other extraordinary aid is required. This, however intermitted for years, is an important check upon the crown's power, because the existence of such an institution exposes the prince always to the hazard of being obliged to put its dormant powers in motion; and almost in our own times, in France, the Low Countries, Portugal, and Spain, the total change of the old government was effected by such means. The knowledge of this possibility, by the letter of the existing constitution, has undoubtedly prevented many bad measures and many encroachments upon liberty in all, or almost all, the kingdoms of Europe. Nor is there a doubt that from a diffusion of the same knowledge among the people of their ancient rights, with the great example of France before them, the establishment of limited constitutional governments will sooner or later be made universal. The arrival of this period may, however, be retarded by the errors or the crimes committed in those countries which have already obtained this restoration and extension of their ancient privileges. Nor can anything tend more directly to postpone it than such examples of national excess and delusion as produced the anarchy and the bloodshed which, first in France, more recently in the Peninsula, brought for a while all popular government into universal disrepute.

5. The establishment of courts of justice, and the general conduct of judicial affairs with order and according to fixed rules, beside producing all the other inestimable benefits of a regular judicial system, imposed a great check upon the power of the crown, as it had originally established a like restraint upon the violence and usurpations of the barons. The study of the law as a science became universal on the revival of letters; and the Civil Law, though tainted with slavish principles, is yet so admirable as a system from the accuracy of its divisions and the symmetry of its structure, that the general attention bestowed upon it, and its introduction into almost all the states of Europe, tended to elevate the professors of jurisprudence in society, and thus to confer dignity and importance upon that order of men. This gave great weight to all judges, and the respect in which they came to be holden made it difficult for princes to interfere with the course of their proceedings. Even though the

judges held their offices during the pleasure of the crown, it was not common to remove them; and thus, although the administration of justice was very far from being perfect, and the influence of the crown extended itself occasionally over the proceedings of the tribunals, still these exercised in their turn a very sensible influence over measures of the government, checked its arbitrary conduct, and formed an important bulwark to the subject. The law was known; men's rights were defined; if the courts submitted to royal dictation, or betrayed a bias towards the side of power, it was seen and felt that they were doing wrong, and that the oppression exercised or suffered was contrary to law and to right. It is evident that this afforded a real security against any gross injustice being very frequently practised. In some kingdoms, as that of France, the courts of justice exercised a still more direct influence upon the executive government in consequence of their having originally been legislative bodies. The provincial parliaments, which had at first held local legislative, and afterwards administrative, functions, had long been confined merely to their judicial powers; but the Parliament of Paris, the most ancient of the whole, and the model on which all the others were formed, continued always to be a body of greater weight, and claimed and was allowed the privilege of registering or refusing to register the royal ordinances and edicts,* a process which was required to give them the force of laws, and which was the remains of the right of previous deliberation anciently enjoyed by the same body when it was invested with direct legislative authority. It is true that the right of refusing to register was very rarely exercised, and that the crown, especially in later times, could enforce registration in case of a refusal; yet, as the body was composed of the most venerable magistrates in the country, and held its sittings in the capital, there is no doubt that the knowledge of its rights or claims, and the apprehension of coming into conflict with it, prevented many an arbitrary act, which but for this circumstance would have been done by the crown.

6. The general improvement of society after the invention of printing had diffused knowledge among the community; the

* An ordinance (*ordonnance*) differed from an edict (*edit*) in this, that the latter was usually confined to one point; the former contained a series or system of regulations.

force which was thus given to public opinion; the tendency of men to discuss those political questions in which they are interested; and the impossibility of even the most arbitrary and overbearing persons rendering themselves wholly callous and insensible to the general voice of censure or approval—forms one of the greatest checks to the exercise of absolute power even in countries where the constitution has erected few direct obstacles to the will of the prince. His ministers must, according to the habits of European society, associate with their fellow-citizens, and indeed mix more or less with the people at large. Even the family of the prince himself are not kept aloof as in the East, where what we term society is unknown, but see many of their subjects and are observant of what passes in the intercourse of life—hearing much of what is said, and thus knowing something of what is thought. If even such despotisms as that of Russia are not wholly removed beyond the influence of the public opinion, much more must it prove powerful in the more regular though still absolute monarchies of the West, and prevent the sovereign from using capriciously all the prerogatives which he enjoys by law.

Of all these restraints upon the powers of the crown which we have been considering, the Aristocratical, or the restraint arising from the influence of an Hereditary Nobility, is manifestly the one most characteristic of European monarchies, and the only one which can be termed an institution common to all those governments. It becomes necessary therefore to examine its tendency somewhat more closely; and the rather that its advantages are easily overlooked among the evils to which it also gives rise.

We must premise that the term *hereditary nobility* seems preferable to the term *privileged orders*, which is commonly used as its synonyme, because there may be an aristocracy without any privilege secured by law. A body of wealthy men, with the power of transmitting their estates undivided in a certain line of succession, would almost of itself constitute an aristocracy, although all persons of small property enjoyed the same power of entailing it. But much more would this body be an aristocracy —a superior class or rank of men between the sovereign and the people—if they were recognised as nobles and distinguished by some appellation, even by a name common to the whole class, as "*A. B., noble,*" although they might not carry their title, as it

were, about with them by being addressed in a particular way, and although they possessed no other privilege over their fellow citizens than this nominal distinction. Provided that they formed a class into which no one could enter at pleasure, and together with this distinction had the substantial possession of wealth, their limited numbers would give them a position in the estimation of their fellow citizens, from which must accrue, in a considerable degree at least, the peculiar influence enjoyed by what are commonly called the privileged orders. In all countries however they have titles and precedence assigned to them; in most countries exemption from duties, in some exemption from taxes, to which the rest of the community are subject; and in some they have more important rights, the remains of the judicial and legislative powers of the barons in feudal times. But, in confirmation of what has just now been said respecting titular rank, it may be recollected that at the beginning of the French Revolution the two great steps by which the nobility were really abolished—their union in the same chamber with the *tiers etat* on the 27th of June (1789), and the extinction of their feudal rights on the 4th of August—created much less astonishment and made far less outcry in the other parts of Europe than the comparatively trifling suppression of titles by what the royalist minister, then in exile (Calonne), called the "incredible decree" of 19th of June (1790).

1. The first thing to be observed of such a body as a nobility is its tendency to act in concert and resist the encroachments of the crown. It would equally resist the encroachments of the lower ranks; but as these have till within the last half century never been formidable, to them at least, the defensive league of the nobility has generally been against the invasion of their rights by the crown, and to resist these they are as it were a disciplined body, naturally constituted and marshalled.

2. But they are also qualified to act by being known and distinguished in the eyes of the whole community. They have a responsibility that belongs not to the mass of the people at large. Their conduct is under a check and control from which that of the multitude is wholly free. Let the body of the people in any country be led away by ever so wild a delusion, or plunge into acts the most criminal, or change as suddenly as can be conceived in their opinions, or act diametrically opposite to their avowed

principles, or break their faith solemnly pledged without the pretence of an excuse; there is no one whom we can look to—no one to bear the blame—nobody feels ashamed—and every one says it is no concern of his. A small class of persons, well known to all, and on whom all eyes are constantly turned, cannot escape in this way from contempt, or ridicule, or hatred. They have something like individual responsibility to restrain them. They are also more likely to be firm of purpose, and to pursue from one period to another the same course. They are, from being an hereditary class, more like the same person, the same individual, from generation to generation. In this way no doubt much of their influence and power of resistance as a body depends upon their being a comparatively small class, singled out and set apart from the rest of the community; and, accordingly, where they are exceedingly numerous, and where many of their members must consequently be in needy circumstances, they do not act in the same manner upon the prince or the State. But in this case the more eminent and wealthy among them form a kind of class within the general body of the nobles, and that class has the same kind of influence over the rest and over the other parts of the community as the noble class at large has in countries where it is less numerous. In several of the European kingdoms, as France before the Revolution, and some of the Italian and German States, this multiplication of the nobles took place to a considerable extent. In Hungary at this day the class is extremely numerous, and comprises many persons of very inferior wealth and even in humble occupations. But in no country was it carried so far as in Poland, where still more frequently than in Hungary, persons were to be seen working as day-labourers, or even in a menial capacity, who had all the rank and privileges of the nobles and in every respect belonged to that body. In these countries, although the aristocratic *influence* truly resided in the upper or wealthier portion of the nobility, the direct *power* which they legally possessed was shared by the whole class.

3. Beside the influence of an aristocracy as a body, they are fitted to act as individuals with greater effect than the ordinary members of the community, because, independently of their personal weight with the people, they are from their station and the hereditary connexion of one generation with another under a greater check of responsibility. The same families are apt

to pursue the same course at different periods; the people can rely upon them as leaders; there is less chance of their deserting or betraying those who trust them and lean upon them for support. Confidence is also more readily given to them, from its being well known that they have an hereditary interest in the well-being of the state—an interest which is likely to operate, and in the majority of cases does operate, as a check upon the public conduct of individuals.

4. The influence of hereditary nobility acquired as we have been showing, makes it naturally a formidable control upon the power of the crown; and although its resistance to oppression has always been chiefly of course directed to its own security and in earlier times to its aggrandisement, yet the opposition which was thus made to tyranny of necessity benefited the people also. For one large portion of the people were the immediate dependants of the nobles, and therefore were protected by whatever protected those nobles; the rest were protected too, because most of the rights secured to the dependants of the nobles were such as those others must enjoy also; and any oppression left to be exercised upon them by the crown would have exasperated them against the aristocracy, which should have provided only for its own defence and that of its retainers. Hence, we find that in Magna Charta considerable security is provided for other classes as well as for the barons; and generally in those monarchies which have much less defined limits to the royal prerogative than our own, the existence of the privileged orders has tended to keep the crown also as regards the lowest classes within bounds unknown to Eastern despotisms.

5. The existence of those orders has had another beneficial effect; it has rendered the government more stable; and the crown has gained as well as the people in consequence. Its power has been abridged; but what remained has been more securely enjoyed. This security, too, is quite independent of the tendency which an aristocracy has to protect the crown from the people, as well as the people from the crown; and independent also of the coalition between the crown and the aristocracy against the people, to which we shall afterwards advert. We now refer to the tendency which it has to prevent sudden changes of dynasty, and sudden revolutions in the government by usurpation. This is effected by the mutual jealousy of the grandees.

No one is likely to become so powerful that he can at once control his peers and defeat his prince. They will easily bear the superiority of the hereditary ruler, because he is elevated equally above them all and never was on their level; but they will not brook one of their own number raising himself over them. Thus, for example, since the dark ages the success in war of a great military leader has never proved fatal to the European dynasties, although it has at all times effected many revolutions in the monarchies of the East. The like effect is produced on the pretensions of an ambitious popular leader, where the monarchy is so mixed as to enable persons of that description to acquire influence. Neither a successful demagogue nor a victorious warrior can raise himself to the supreme power over the hereditary nobility in a regular monarchical government. Even where a change in the person of the prince has been rendered necessary, some other of his family has been taken to succeed him; of which we have a remarkable instance in our own revolution of 1688. In all the discussions which took place on the settlement of the crown upon that memorable occasion, and among all the plans which were propounded, there does not appear ever to have been the least mention made of any powerful subject being raised to the throne. The idea in all probability never was entertained for a moment in any quarter; and if broached, it would certainly have been stifled or instantly repudiated. Nay, had Marlborough himself then attained the height of renown and personal influence which he afterwards reached, and been proposed as successor to James, there cannot be a doubt that the jealousy of the nobility would have prevented the scheme from being even entertained. In fact, at a subsequent period it was found that his dismissal from all his employments, after he had performed such services as before his time no subject had ever rendered to his prince nor any citizen to his country, passed without creating a greater sensation than would be occasioned by any ordinary change in the ministry or in the command of the forces.

6. Although the natural jealousy of nobles will prevent usurpation of individuals, the combination of their body against the king, long after his emancipation from feudal thraldom had been effected, has sometimes reduced his power so much as to leave nothing but the name of a monarchy, and to make the

government in substance and effect aristocratical. This happened both in Sweden and Denmark, where the nobles really engrossed so great a share of power as to leave the king's prerogative little more than a name, until in 1660 the Danish, and in 1772, and still more completely in 1788, the Swedish kings recovered their authority and entirely overthrew that of the aristocracy. The people at large favoured and helped in the Danish revolution, and cheerfully acquiesced in the Swedish.—It is probable that in Hungary the same ascendency would have been acquired by the nobles had not the power of the crown, derived from its other possessions, been sufficient to overawe and restrain them. Certain it is that originally the government was wholly in their hands, and the crown elective. But though this elective right continued till the 15th century, the prince chosen had foreign dominions for the most part during a long course of ages; and the Austrian sovereigns, strengthened by their hereditary succession, as well as by the possession of their other states, reduced the aristocratic power within moderate limits.—In Poland, what went under the name of a republic was truly an aristocracy; and the power of the crown, which some Polish authorities hold to have been always elective, and which certainly became elective as early as the ninth century, was at least, in modern times, entirely subject to that of the nobles, until the dreadful anarchy in which its unhappy constitution had plunged the country introduced a foreign force to sustain the royal authority in the hands of the deputy or instrument of a foreign power.

7. The hereditary succession of the nobles not only has the tendency to augment their influence by gaining for them the confidence which naturally accrues to their identity and responsibility as a body; it has also the important effect of augmenting their influence by securing to one generation the gains made by another. But it at the same time provides a check upon rash or unprincipled proceedings; it prevents men, generally speaking, from encountering the hazards to which ambition is exposed; it makes them feel at each moment that they have to regard the interests of their order and of those most nearly connected with them in after times. Hereditary nobles have in some sort the interest and the feelings respecting the state as well as their own class, which owners of inheritable property have with respect to the

management of their estates. The other members of the community do not feel this in the same degree; they more resemble those landowners who only hold their property for their lives. They have an interest, and they feel, for their descendants, but not in the same degree. It is as if what befel the country were less their affair than it is felt to be their's by an hereditary nobility. The smaller number of such nobles, their greater distinction and weight, their importance being confined to the country, and not like wealth capable of being transferred elsewhere, or even like landed property, convertible into money and so transferable, gives them this peculiar interest and the feelings connected with it. The error is great of those who wholly overlook the deep interest which others, both proprietors and persons living by their labour, have in the well-being of the state, and who argue as if such persons had no stake in the country. But they would be right were they only to affirm that in degree the stake of the privileged classes is greater, even where their possessions are the same.* It must be further observed as a consequence of the interests and feelings to which we have been adverting, that a disposition to take alarm at the approach of danger towards the state peculiarly characterises the hereditary nobility. This feeling has a salutary effect in preventing rash and ill-considered measures from being adopted and in withstanding at their commencement such attempts as in their further progress might produce mischief, not contemplated by those engaged in them. But it is generally carried to a pernicious extreme and tends to check improvement, because it almost everywhere degenerates into an excessive and indiscriminate abhorrence of all change.

8. It has been very usual of late years to cite the authority of Mr. Burke, and appeal to his political writings, scarcely less profound than they are eloquent, on the subject of aristocracy as connected with constitutional monarchy, whether pure or mixed—pure like those of the continent before the French revolution, or mixed like our own and those of France, the Low Countries, and the Peninsula. But it should always be kept in mind that his remarks, and especially his panegyrics, were directed to two very different kinds of aristocracy—the artificial or conventional, and the natural; that is, the privileged classes or hereditary

* Some have argued that labourers and others in circumstances which preclude the possibility of leaving a country, have on that account a deeper interest in its welfare.

nobility, and the body of unconnected individuals to be found in all classes and possessing from whatever qualifications, natural or acquired, claims to esteem and respect. That the former is an essential part of a constitutional monarchy—a monarchy without popular institutions—is self evident: it is indeed that which distinguished this kind of monarchy from absolute despotism. That a mixed monarchy cannot exist without it appears also to be probable, although we cannot affirm this proposition so confidently. It is Mr. Burke's opinion certainly, and the opinion of the great bulk of political writers, both in his day and at all times. But he has in various places shown himself quite alive to the abuses and the evils attendant upon the institution, and has plainly enough pointed out the faults even of the French *noblesse*, the body which he was led most especially to vindicate and to commend. His encomiums are rather reserved for the natural aristocracy; and the most celebrated passage of this kind in all his works confines its praise to that aristocracy by name. The description includes worth and merit of almost all kinds—all, with but a few exceptions, attainable by individual exertion in every class of society, and all, without any exception, capable of being possessed without reference to hereditary rank.—"*To be bred in a place of estimation; to see nothing low and sordid from one's infancy; to be taught to respect one's self;* to be habituated to the censorial inspection of the public eye; *to look early to public opinion;* to stand upon such elevated ground as to be enabled to take a larger view of the wide-spread and infinitely diversified constitution of men and affairs in a large society; to have leisure to read, to reflect, to converse; to be enabled to draw the court and attention of the wise and learned wherever they are to be found; to be habituated in armies to command and to obey; to be taught to despise danger in the pursuit of honour and duty; to be formed to the greatest degree of vigilance, foresight, and circumspection in a state of things in which no fault is committed with impunity, and the slightest mistakes draw on the most ruinous consequences; to be led to a guarded and regulated conduct from a sense that you are considered an instructor of your fellow-citizens in their highest concerns, and that you act as a reconciler between God and man; to be employed as an administrator of law and justice, and to be thereby among the first benefactors of mankind; to be a professor of high science or of liberal and

ingenuous art; to be amongst rich traders who from their success are presumed to have sharp and vigorous understandings, and to possess the virtues of diligence, order, constancy and regularity, and to have cultivated an habitual regard to commutative justice;—these are the circumstances of men that form what I should call a natural aristocracy, without which there is no nation."*—The articles of this just and striking enumeration which are here printed in italics are the only ones which may not belong to persons who have raised themselves from the humblest station; and even these articles may belong, some of them, to the children of persons in easy circumstances but without any rank; and the rest to the children of individuals who have raised themselves to eminent station solely by their own exertions.† It is certain that the possession of rank facilitates the acquirement of such merits in persons of equal capacity: it is also certain that some of them are possessed by virtue of mere rank; but it is not the less true that the respect naturally yielded to them all is gained by the intrinsic value of the qualification, and not by the accident of the rank.

Such are the restraints provided by the state of society, and by the constitutions and customs of the pure European mo-

* *Appeal from the New to the Old Whigs.* This is perhaps the most remarkable of Mr. Burke's writings, in respect of the profound and striking views of political principles which it expounds, accompanied, however, with some over-refinement. The whole argument upon the rights of a mere numerical majority deserves the utmost attention. According to the doctrine explained in Chap. i. and ii. of this series, no change of government is justified merely by the desire of that numerical majority. But the defect of Mr. Burke's reasoning is, that, as in the passage now quoted, he regards the people in too limited a sense. He does not include the well-informed and respectably-conducted persons of every condition among the class which should have weight and be consulted. The influence of the natural aristocracy which he describes will always have its sway over such persons in a humble station as well as over the uninformed multitude; but over that multitude, those persons too will have and ought to have great influence. Whether they are to be called a portion of the natural aristocracy or not, they are entitled to judge for themselves, and their wishes as well as opinions have a just claim to be consulted.

† It is more than doubtful whether the refinement asserted in this celebrated passage to be the peculiar portion of those who have been born and bred in superior station of rank or of fortune may not belong also to persons in the humbler spheres of life. There never was greater delicacy of sentiment among the inmates of a palace, than appears to have prevailed in the cottages of the peasantry whom Marmontel describes in the very interesting sketch of his early life. Other instances of the same kind are to be found in the lives of eminent men who have raised themselves from an humble origin.

narchies, upon the power of the sovereign, which, by the strict letter of the law, is subject to hardly any control, inasmuch as the legislative power practically resides in him ever since the assemblies of the people in states or parliaments have been disused. The effect of the institutions which we have been considering is to prevent the monarch from exercising the power which he possesses of altering the fundamental laws, and overturning the institutions themselves. His object always is, by all safe means, gradually and silently, exciting as little observation as possible, to undermine those checks on his own power and those securities of his subjects which he cannot venture upon destroying; and the object of the people, especially of the more important classes, ought to be as constantly the watching each step he takes, and resisting, as far as they can, all his encroachments.

Let us now cast our eye upon the progress which has in this way been made by the Crown in all the continental states, after its emancipation from the power of the nobles was effected,—a progress only arrested of late years by the events in France and by the improved understanding and habits of the people everywhere.

1. When by means chiefly of the middle and commercial classes the power of the feudal aristocracy was reduced within bounds, the king was more strong than he had ever been, for he was independent of the great barons; but he was still so far from absolute that he could not even be called powerful. The barons retained great influence and no little direct power; and the third estate, the Commons, rose into a share of the influence formerly engrossed by the aristocracy. As this proceeded umbrage was given to the Crown from a new quarter; and the nobles declining more and more and becoming no longer an object of jealousy, they were found disposed to take part with the Crown in resisting popular encroachments. They had never felt otherwise than aversion and alarm towards the commons, and the Crown easily obtained their assistance in such disputes. Accordingly it has in modern times been the constant policy of the prince in monarchical states to unite himself with the nobles and gain them over to his side by all means. Offices about court are lavished upon them; honours which they so highly prize are reserved for them; the society of the prince is composed of them; to his court they are attracted by every allurement; to his party they are attached by every tie. In

proportion as the people rise in importance by their wealth or their acquirements, and as this begets in them a desire for ampler privileges, in the same proportion does the prince feel it necessary to court the nobility, and in the same proportion does he find the nobility disposed to second his views against an adversary alike formidable to both. Hence it is almost an axiom in constitutional monarchy that the main strength of the Crown lies in its alliance with the privileged orders; that without these orders it cannot maintain itself; that they form its steady and regular bulwark against all popular encroachment. They constitute indeed, on the other hand, as we have seen, a very marked difference to distinguish these monarchies from the despotisms of the East; they form a body whose privileges prevent the king from being arbitrary and tyrannical and absolutely supreme; for they are a rank—an order—independent of him and sharing with him the supreme influence, if not the supreme power directly. But as long as he leaves their rights untouched they are found enlisted on his side against the people, and they make the government a species of aristocratic monarchy, just as in Sparta and one or two other ancient states, where the supreme power was in the hands of the king and a popular assembly, there may be said to have existed a monarchical commonwealth or a republican monarchy.

2. But this has not been the only important step made by the crown in augmenting its power and influence. The popular assemblies, originally universal in the feudal monarchies, have in process of time been disused in all the continental kingdoms. In some, as Germany, Italy, Sicily, and the Peninsula, this change took place by slow degrees, by lopping off one privilege and function after another, by gradually ceasing to require their attendance, or only convoking them upon extraordinary and rare emergencies, and dismissing them as soon as the occasion ceased. In others, as France at the beginning of the seventeenth century, those assemblies were at once finally disused without any regal ordonnance. In some, as Denmark, in the middle of the seventeenth century (1660), the entire abolition of the states; and Sweden, about a hundred years after (1772), their virtual abolition, was effected by revolutions to which the Crown and the people were parties in the former country—in the latter the Crown and the army, the people making no resistance. But in all the kingdoms of the Continent the monarchy was made

absolute, by putting down or disarming the legislative assemblies more or less representing the community at large; and the aid of the aristocracy having enabled the Crown to make this important step, their continued alliance against the people further secured it against any resumption of popular rights.

3. It may, however, be questioned if this change—this real revolution, sudden or gradual—could ever have been effected by the crown, even with the aid of the nobility, had not a great change taken place in the military system of the European nations. The entrusting the defence of the state to regular armies instead of the feudal and other militia, is the change to which we allude,—in other words, the use of standing armies. These have for the last two centuries and a half been introduced into all the kingdoms of Europe; indeed, some standing force was known four centuries ago, but their regular establishment and in large bodies may be dated at the latter end of the sixteenth century. This practice is pregnant with every mischief. It encourages war, the greatest of national calamities; and it arms the crown with a power which nothing can effectually control but the fear of producing a union between the aristocracy and the people. While the aristocracy remains united with the Crown a standing army reduces the rights and liberties of the people, in the countries of which we speak, to a mere name. They have little more security against oppression than such as may be derived from the reluctance of the combined powers, the king and his nobles, to incur the general odium attached in the public opinion to tyranny, and their fear of exciting a rebellion by the arbitrary exercise of unlimited power. Now the Eastern despotisms themselves, though they suffer no diminution of severity from the first of these considerations, are materially mitigated and even controlled by the last.

4. The influence of the clergy is almost as important to monarchies as that of the nobility, in fortifying the power of the Crown. The Church is always established by law in those states, and the hierarchy, or body of the endowed clergy, are connected with the aristocracy by means of the wealth and honours conferred upon its higher classes, the prelates and other dignitaries. These, by their power over the inferior clergy, place at the disposal of the Crown and the nobility the whole weight of this numerous and important body of men,—who, by

their universal dispersion over the country and by the peculiar species of their influence over the minds of the community, form in each neighbourhood a central point from whence the combined power of royal and aristocratic authority may be exerted. In all monarchies two things may be remarked in connexion with the ecclesiastical polity,—the king is the supreme head of the Church in reality, under whatever name the supremacy may be exercised,—and the nobles are especially concerned in its welfare by sharing largely in its endowments and privileges.

Montesquieu, in his justly celebrated work on the *Spirit of Laws* (of which we spoke in chap. ii.), has laid down a doctrine as to the clergy which is full of error, and error of a far more dangerous kind than those speculative ones to which we formerly adverted.—"In proportion," says he, (Book II. chap. iv.) "as their power is dangerous in a republic it is advantageous in a monarchy, and especially in a monarchy verging towards despotism. Where would Spain and Portugal be, since the loss of their constitution, but for the clerical influence which arrests the progress of arbitrary power? This always forms a useful barrier where there is none other; for as despotism brings frightful evils on humanity, the mischief itself is a good which sets bounds to it."—Now, nothing can be more true than that in despotisms where there is no restraint at all on the tyrant, the religion of the country, while it helps to sustain his authority, is at the same time somewhat beneficial to the people by forming a kind of control upon his caprices; but then this remark is wholly inapplicable to a monarchy, where, instead of checking the prince, clerical influence is one of his most powerful allies—helping him to extend as well as strengthening him to retain his authority, and aiding him in converting the monarchy into a despotism under which and in alliance with which the history of the East fully shows that a church establishment is quite capable of existing, though an aristocracy is not. As for Spain and Portugal, the question which Montesquieu puts is easily answered. The clergy, far from having aided the people since the loss of their old constitutions, after first enabling the crown to overturn those constitutions, subsequently prevented the people from regaining them. The alliance between the crown and the clergy, between the court and the rabble, ignorant, barbarous,

superstitious, and easily led by their priests, has formed the chief obstacle to the progress of public liberty in both the kingdoms of the Peninsula.

We are now to examine the effects of the monarchical* form of government, and to see how far it promotes and how far it defeats or opposes the ends of all political associations.

In conducting this inquiry we must never lose sight of one position:—The tendency of monarchy is to degenerate into despotism, the worst of all governments. To this in its nature and origin it is near akin. The absolute, uncontrolled power of one man is worse than the power of one man only controlled by institutions over which he has himself a great influence; but this last is an evil of the same description, and it is an evil very likely to glide into and identify itself with the other. The sharing of the supreme power between the prince and an aristocracy, necessarily begets some good even to the country, which neither care for because both fear it; yet if the supreme power is wholly in the hands of the prince and the aristocracy, the people, who are excluded from all share in it, are little better off than under the unchecked domination of one—better they are, but not much.

This proposition leads to another. In proportion as any monarchy approaches to the despotic form, its effects on the condition of its subjects, and generally its bad qualities, will resemble those which we have before described as especially characteristic of despotism; and hence, throughout the monarchical system, we shall be able to trace many of those evils which we have found to prevail in Eastern governments. These evils, again, will be mitigated in proportion as any given monarchy differs from the despotic form, but still they will in all monarchies be more or less perceivable.

1. The great sway of the individual in the state, and his power of regulating all its movements,—his interests, and his will, and

* To avoid repetition the terms *monarchy* and *monarchical* are used without the qualification always understood in this chapter—namely, constitutional as contradistinguished from Eastern despotism—pure as contradistinguished from mixed. But many of the doctrines contained in the text have an application to mixed as well as pure monarchy. These doctrines, for example, illustrate the encroaching tendency of the crown; the gradual deterioration and even disuse of popular institutions; the necessity of guarding against the progress of the one, and maintaining the vigour of the other. It was under a mixed monarchy that popular rights were at one time so greatly abridged in England, and almost entirely lost in Scotland. In both countries many grounds of complaint, and some of alarm exist, to which the statements in the text bear immediate reference.

even his caprices, being on every occasion the thing to be chiefly consulted,—is the fruitful source of mischief and of the principal evils attendant upon the monarchical form. In a despotism nothing else is considered; the will, the breath of the sovereign is the law, and his most imperious dictates must be obeyed, his wildest fancies humoured. The regular forms of proceeding in a monarchy check this very materially; the prince does not interfere, ordinarily, with the course of justice or oppress individuals otherwise than through the bias which he may give to the administration of the law. But his pleasure is far more consulted than the wishes of any other class,—infinitely more than the good of the country. His personal wishes affect the course of the government at home; his fancies, his ambition, his family connexions, regulate more or less the course of foreign affairs, arrange the terms of negotiation, or plunge the state into wars. This is, indeed, among the worst ills attendant on absolute monarchy, that the ambition or the interests of one individual may oftentimes hurry on hostilities ruinous to the country.

2. The alliance between the king and the nobles is a check to the will of the individual, but only a check as regards the will or interests of the privileged class, with whom he shares his power. The people gain comparatively little by this control, and where the caprice or the interests of the prince and his nobility coincide the people gain nothing at all.

3. It is impossible to deny that monarchies have generally speaking been warlike and given to conquest. Whoever is entrusted with much power is apt to desire more; he who is strong at home is naturally wishful to show his influence abroad. Kings whose dominions are large are prone to regard the maintenance of a military force as the chief good incident to their lot; and as they have always the pretext of maintaining their own power at home, or what they call preserving the peace of society, so they easily put themselves in a condition to extend their power among their neighbours, or as they term it to make their nation respected abroad. The spirit encouraged among their courtiers and nobles leads to the pursuits of war, and among those classes princes find no curb to their ambitious propensities. At the same time much is said, and justly said, of the warlike dispositions evinced by commonwealths; and in the republics of ancient times, especially, this is undeniable. Not only, however, were those governments aristocracies rather than republics, as we

shall hereafter show, but the temper of the times must be taken into account, and then it will appear that in rude ages all governments are about equally prone to attack defenceless neighbours and extend the limits of their dominion. In our improved age the more each nation manages its own affairs, the less chance is there of wars being undertaken, which all men know to be against their best interests; and the more the people are excluded from a voice in the government, or the more the supreme power is confined to a few hands, the feebler in all ordinary cases will be the security of the state for the preservation of peace.

4. A monarchy is naturally extravagant—it is splendid and it is expensive—it is reckless of the general suffering from the burdens of taxation; and it is prone to consider only the interests and enjoyments of courts and persons in authority. The position of an aristocracy in the government of the state augments this tendency towards extravagance. Where a luxurious nobility are hanging upon the prince and aiding all his projects with their influence, the more lavish the expenditure is the more they gain by it, and while their support is secured their weight in aid of the crown is augmented. Ample establishments are thus rendered necessary for the support of the partnership, king and nobles. Not only a large and splendid court must be kept, but all departments of the state must partake of the same liberal allowance; all must be on the like extravagant footing. Thus whole departments must be maintained to feed the aristocracy and supply its own wants and the necessities of its dependents. A richly-endowed hierarchy—numerous governments of towns and provinces—a large military staff—in maritime countries expensive colonies—must all be kept up to provide for the nobles and their families and their followers.

5. The maintenance of a standing army, numerous, expensive, and well disciplined, is another charge upon all monarchies; and it is the inducement to war, the instrument of oppression, and the means of breaking those laws and encroaching on those institutions which are the only barrier against pure despotism. Large armies are incompatible with the genius, almost with the existence, of a commonwealth. With the institutions of a pure monarchy they square perfectly—they are in complete harmony with its spirit.

6. The whole arrangements of the state are modelled upon

the monarchical footing. In provincial, in district, in municipal, even in parish affairs, the tendency of all institutions is towards the exclusive rule of one or of a very few, and against the intrusion of the popular voice. Everything must be on the model of the general government. In a country where the public are wholly excluded from the administration of state affairs, they cannot safely be admitted to manage even their own local interests, because the habit of acting in these would inevitably beget the desire to interfere in the affairs of the community at large. In a country where the will of the prince and his nobles gives the law, his representative or some one officer is sure in the long run, together with a few chosen persons exempt from all general control, to manage the affairs of each subordinate community. It would be a strange anomaly to see republican municipalities flourishing under a pure monarchy. In many of the European governments, the people of the towns were entrusted with their local governments at a period of history when the crown was feeble, or was in a state of conflict with the aristocracy, and neither could be said greatly to overmatch the other; but gradually as the power of the crown rose, the privileges of the people in towns were effaced, till at last almost everywhere the local administrations were in the hands of a few persons holding office by some system of nomination or election with which the community never interfered at all.

7. The influence of the monarchical principle, but especially when combined with aristocracy, as in European monarchies it ever must be, tends to the establishment of a division of property and of influence in the families of the community, not very wholesome for public liberty or for the character of the people, though attended with some redeeming consequences:—we allude to the rule of primogeniture. The making a little monarchy in each house is the object of this rule, which enriches the eldest son and makes him idle and overbearing, while it leaves the rest of the family dependent upon him and renders them obsequious to him. The law of entails is the abuse of the law of primogeniture; and their consequences are prejudicial to the happiness of families as well as to the wealth and commerce of the country. A large portion of the land of the community is thus taken out of the market, devoted to a particular line of succession and possibly a certain kind of management, thus raising unnaturally the price of the residue. Great misery is likewise inflicted upon the

members of families in which no powers exist of burthening the lands entailed with jointures or portions. In some countries, as Scotland, the right of entailing is quite unlimited and a man may settle his estates so as to tie them up for ever. From a third to a half of the whole land in the country is under this absurd and pernicious restraint. In England the right of entailing has been restricted within narrower limits by the course of judicial decisions rather than the letter of the law: it extends no further than one-and-twenty years beyond the survivor of any life or lives in being. The laws of Rome originally allowed of no entails; but they were introduced under the empire, and might for some ages be made perpetual, until Justinian confined them early in the sixth century to four descents. Under the feudal system, while in its vigour, the alienation of land being prohibited without the lord's assent, the object of entails was attained. As the power of alienation became established entails were introduced. In England, where the feudal strictness was most imperfectly established and earliest relaxed, the law of entail dates from the end of the thirteenth century (1285). In Scotland, where the system remained in vigour much later, the entail law belongs to the seventeenth century (1685).* In France, perpetual entails (*substitutions fidei commissaires*) could originally be made until the ordonnances of Orleans (1560) and of Moulins (1566) adopted the rule of Justinian, but confined it to three descents. In Spain, from the beginning of the sixteenth century (1502 to 1521) perpetual entails of nearly one-half (seven-fifteenths) of the land could be made, and with leave of the crown, of the whole; and these entails, called *majorats*, were lawful in the French province of Franche Compté, conquered from Spain in 1672. In Italy, majorats are also lawful; and in Germany entails are unrestrained, as they were with us after the statute (1285), until the decrees of our courts confined them by having recourse to fictions of great subtlety, but of great benefit, within the limits which we have already stated of twenty-one years beyond the last life in being. It appears then that with the exception of Germany there is no country in which the law of entail has ever been so rigorous and so bad since the sixteenth century as it is in Scotland.

8. The power of the crown, notwithstanding the constitutional

* Before the statute of James VII. attempts had been made in Scotland, and aided by the courts, one in 1662; as they had also in England before the statute of Edward I.

checks, has become very great in pure monarchies, by the means employed to extend it, in alliance with the privileged orders. The power of arbitrary imprisonment of itself is sufficient to place any one at the mercy of the prince, and that power belongs to him everywhere except in France, the Low Countries, and the Peninsula. The abuses perpetrated by this power under the old French monarchy, and still perpetrated in Italy and Germany, are well known. Louis XIV. kept one man confined for above twenty years, a person of condition and who died in prison, no one ever having discovered who he was. At the death of that prince, the regent, who liberated all those whom he had kept imprisoned, found one unfortunate person who had been five-and-thirty years shut up and was wholly incapable of resuming his place in the society of men. The privileged classes were partly kept in awe by this dreadful power, but partly benefitted by being suffered to share in it; for those who had interest at court could use it against disobedient children or troublesome rivals. The weight of the evil arising from such prerogatives falls chiefly on the higher classes; yet it must not be supposed that they are harmless to the inferior orders of the people. Any man, how obscure soever his station, will probably be cast into prison in those countries the moment he makes himself obnoxious to the government; and he may very possibly be removed out of a powerful person's way without any political reason, but merely because his rights as a proprietor or a husband or a brother have proved inconvenient. A habit of praising too much the governments of the continent and underrating their abuses, became prevalent after the dreadful excesses of the French revolution. The terror which these naturally excited and the exaggerations in which the enemies of the old system indulged during the earliest period of the new, made men overlook the vices inherent in even the mitigated species of absolute monarchy; and they for a time could hardly discover any fault in it, merely because it was preferable to the despotisms of the East and was free from the enormities of revolutionary anarchy.

9. The effects of pure monarchy, and its companion aristocracy, upon the character and habits of the nation are easily traced. The tendency is towards making men regard only their superiors. The will of the court and upper classes becomes the law, and their habits the example for all. Court favour and the countenance of nobles are the objects of universal pursuit.

The sterling, the manly virtues are little cultivated. Personal courage, honourable feelings, public spirit, exist in the upper classes, and exist in good measure; but it is to please and serve the masters of the state. The genuine virtue of patriotism is little known; and the noble character of independence is wanting. Among the majority of the people dull submission to the government prevails; no great tyranny being exercised, no extensive corruption through fear prevails, chiefly because nothing is ever attempted at which the constituted authorities could take umbrage; but no spirit of free speech or free action can be said anywhere to exist. Among the upper classes, those who are brought into immediate contact with power, fear prevails almost as much as in pure despotisms. The alarms, the suspicions, the precautions, prevalent in the society of the superior classes in Italy and Germany are almost equal to any which can be observed in the courts of the East. It is towards those classes that the prince and his court direct their attention; and as the legal rights of humbler individuals are seldom violated, such violations as do occur are chiefly upon the person and property of persons near the throne. These are thus exposed to the two great corruptors of mankind—desire and fear—tempted by bribes and compelled by threats. Hence the suppleness and falsehood which are indigenous in the courts of absolute princes; vices ill repaid by the possession of the polish that attends them.

10. The vigour of the monarchical government, both at home and abroad, is the quality most boasted of by its admirers; and to this it can lay claim from the unity of its councils, and the undivided force which it brings to their execution. We shall afterwards see that this does not of necessity belong to the pure monarchical form exclusively. But there is one virtue which this constitution and all monarchy possesses beyond any other, the fixed order of succession by inheritance. In this respect it greatly excels both despotisms and commonwealths. The former are constantly subject to revolution and violence; the latter are unstable from opposite causes; but monarchies, established by law and accompanied with regular institutions, have the hereditary principle of succession in perfection. That this rule leads to great occasional mischiefs there can be no doubt; and if we prefer it, the reason is drawn from a balance of opposite evils. Nothing can be more absurd, nothing more liable to produce serious misfortunes, than the succession to supreme power of one

whom neither worth nor capacity fits for the station, and whom a court education most probably renders still less virtuous and able than nature had made him. Nevertheless, the dangers which are sure to result from suffering the place of chief magistrate to be played for by intriguing, or fought for by ambitious men, whose partisans will assuredly convulse the country with their conflicts, are so formidable as to make reflecting persons overlook all lesser risks in the apprehension of the worst of calamities, civil war. This is the redeeming quality of monarchy; it is far enough from leaving the question all one way, but upon the balance it gives a great gain. The question may not be decided for all countries and all stages of society, between a commonwealth, where the chief magistrate must be elective, and a monarchy, where he must be hereditary; but in the present state of society, or at least in the state of society where monarchy has hitherto been established, the risk of civil war does appear to determine that question. Wherever men are so ill informed respecting their own interests, their duties, and their rights, as to reckon the person or the family of the sovereign the most important of all subjects of controversy, the rule of hereditary succession is the only security against that risk; and no state can safely have any form of government which we term monarchical without adopting this rule—for if the people have become wise enough to avoid splitting into parties and fighting for who shall be king, they are wise enough to govern themselves, and the great use of monarchy is at an end. Elective monarchy is of all forms of government the worst and the most inconsistent with itself. But in proportion as the people improve and become less prone to take arms for a personal question, in the same proportion will the argument for monarchy lose the force which it derives from fixing a rule of succession and preventing intestine war. No absolute monarchy can exist without the rule of inheritance;* no limited monarchy can well exist without it. When the people are fit to be entrusted with the choice of their chief magistrate, they are fit for living under a commonwealth.

* The Roman Empire in its decline, and the Papal sovereignty at this day, are, properly speaking, no exceptions to the general proposition. The former was a series of violent changes, an alternation of despotism and anarchy, rather than a regular government, and the choice when exercised was in the hands of a military mob. The latter is only kept from anarchy by the peculiarity of the electors and candidates being all professionally incapable of taking arms.

CHAPTER XI.

THE FRENCH MONARCHY.

Traditions respecting Pharamond—The four Barbaric laws—Salic, Ripuary, Burgundian, Visigoth—Clovis—Foundation of the monarchy—First or Merovingian race—Rois fainéans—Mayors of the palace—Origin of the office—Their usurpation—Similar usurpations in Asia—In Spain—Crown united with the office by Pepin—Second or Carlovingian race—National assemblies—District courts—Rachimburghers or Ahrimans—Succession to the crown—Appointment of bishops—Councils—Charlemagne—His administration—His institutions—Echevins or Scabini—Missi dominici—National assemblies—Aristocracy restrained—Crown's great power—All functionaries appointed by it—Clerical power restrained—Origin of tithes in France and England—Conduct of the clergy—Origin and effects of monastic orders—Military establishment—Character of Charlemagne—Appendix; Tables of the three races.

We now proceed to a more particular examination of the monarchical constitution in detail. The account which we gave of the feudal system and its history enables us to understand more clearly the structure of the monarchies of Europe which were formed under it and modified by its pervading influence. The first of these in antiquity and in importance is that of France. It is also the one in which the feudal institutions were most complete and most prevalent.

We have already seen [481-511] that Clovis, Chief or King of the Frankish tribes,* first united the whole country of Gaul under one monarchy by defeating the Romans under Syagrius, the Burgundians under Gondebaut, and the Visigoths under Alaric II.; and he is by some considered as the founder both of the Salic law and the kingdom. But according to others Theodomar had a hundred years before established himself as chief of the Salian Franks, and his successor Pharamond had reduced the law to a short but comprehensive code.

* Page 267.—For a Chronological Table of French Kings see pages 394–396.

No doubt the common opinion, or rather the popular tradition, represents Pharamond as the first King of France; but the whole of the early period of French history is involved in obscurity, and of Pharamond we know nothing precise. The earliest historians, as Gregory of Tours and Fredegaire, do not even mention his name, which first occurs in the writings of the eighth century. Accordingly he is by many believed to have been a fabulous personage; and others who admit his existence deny that he ever was in France, referring his dominion to Westphalia. The probability however is that a Frankish general of this name was successful in some affairs with the Romans and acquired authority of a military kind in the southern provinces of Gaul at the beginning of the fifth century. There is no reason whatever to believe that he was the author of the first *Salic* law, for the authority which is cited to support this position (*Gesta Francorum*) is not to be relied on, and it represents that law to have been the work of a council of nobles held at the same time with Pharamond's election as king. The best authorities are now agreed that the Salic law never was reduced into writing before the seventh century, when it was published in this form among the Salian Franks then inhabiting Belgium. It is properly speaking a collection of rules, dicta, and decisions made by some individual, and without the least order, plan, or arrangement. Five-sixths of it relate to offences and their punishment by pecuniary compensation. But it also contains some provisions of civil jurisprudence. Thus it prescribes the manner in which creditors shall obtain their debts by a progressive increase of interest upon payment being withheld, and ultimately by seizure and sale of the debtor's goods; and it even authorises his capital punishment, though redeemable by ransom. A rule is laid down that Salic land shall not be enjoyed by female but only by male heirs; and Salic land is now generally supposed to mean the ground immediately surrounding the house, because originally the other land was held in common. From this provision the principle is supposed to have arisen in France that the Crown shall never be held by a female; but the Salic law is wholly silent upon the royal succession. Indeed it contains no provision at all of a constitutional kind. It however fully recognises the interposition of the people (that is the higher orders, for the multitude interfered very

little) both in judicial and legislative proceedings, assuming this as understood without positively declaring it. The only mode of trial recognised in either this or any other code of those times, except the Roman law, is by *compurgators*, that is, persons whom either party produced to swear that they believed he had right on his side. Investigation of the truth by testimony never was resorted to, and written evidence was of course out of the question. Another circumstance belonged to all these codes in common; they were originally, and for some ages they continued to be, personal and not territorial; they were the rules for individuals or races, and not for all inhabitants of the district. Thus the Salian Franks lived under the Salic, and the Ripuarian Franks under the Ripuary law, and the Burgundians under the Burgundian, and the Romans under the Roman or civil law, although all might be dwelling together in the same country—nay, men had the power everywhere of choosing under what law they would live, provided only that they made a public declaration of their choice.

Although this celebrated Salian code was only reduced into writing in the seventh century, its rules must have been adopted and acted upon much earlier as the common or unwritten law; for all the traditions of the eighth century ascribe to it an earlier origin. But those authors seem clearly to be mistaken who consider Clovis as its founder; for he was the first convert to Christianity of the French kings, and the provisions of the Salic law treat ecclesiastical matters, churches and church officers, in such a manner as proves the religion to have been already fully adopted by the community and established in the state.

The *Ripuary* law was apparently of later date than the Salic, and prevailed among the Franks settled near the Rhine and to the south of Belgium. It had a greater proportion of civil provisions, although the criminal preponderated; and all its penalties like those of the Salic law were pecuniary compositions. Some of them were so absurd as to award the fine according to the height of the party killed. This was the case in respect of a bishop murdered. The language of enactment is much more used in this than in the Salic law; and Dagobert's compilation, which appears to have been the first reduction of it into writing, about the year 630, purports to be by authority of the king, the princes, and the Merovingian people. It provides for the manner

of enfranchising serfs, which the clergy had already begun to encourage as a religious duty; it secures privileges to the Crown and the Church in respect of their serfs; and it makes high treason capital.

The *Burgundian* law was certainly earlier than either the Salic or the Ripuary. Gondebaut (from whom it is often called the *Loi Gombette*) published it in 501; it is an ordonnance or series of enactments, not a mere collection, and additions were made to it for twenty years after. Having been adopted however considerably earlier than it was reduced to writing, it comes from a period near the times when the Roman government and law were in vigour, and is accordingly more refined than the Salic or Ripuary codes. Not above half of its provisions refer to criminal matters, and for various offences corporal punishments are awarded. The other parts regulate contracts, marriages, succession; and considerable assistance is derived from the Roman law in dealing with these heads. Great anxiety is manifested to place the Burgundians and the Romans on a perfectly equal footing, whereas the other Barbaric codes carefully preserve the inferiority of the latter race—a feature in this code which we shall afterwards find led to important consequences. Its provisions are strong against judicial misconduct; and delay or neglect in judges, as well as corruption, is punished by fine. It continued in force long after the final conquest of Burgundy by the Franks (634); but two centuries later few were found to live under it.

But the law of the *Visigoths* was the most improved and systematic of all these Barbaric codes, at least after it had been finally established. It was first collected by Euric (or Evarix), who caused the Gothic branch of it to be compiled late in the fifth century: he died in 484. It was improved by Levigilde and other successors. Alaric II. compiled the portion for the Romans in 506; and the two were moulded into one about the middle of the seventh century when the Visigoths had settled in Spain (652). During the latter half of that century the important step was made of abolishing the personality of the code and applying it to all persons of whatever race living within the territory. The Council of Toledo is supposed to have finally promulgated the code in 693; and it was chiefly digested by the clergy who attended that national assembly of Spain.

Although the Visigoths after their overthrow in 507 retained only a very small territory in France, yet their law kept its authority in Languedoc till late in the ninth century. It abounded in provisions for municipal government, adopting the Roman plan, with barbarian names for the functionaries, and giving the governors the power of levying troops and taxes, while it preserved the jurisdiction of the Counts. It conferred much more power both on the Crown and the Church than the three other codes; it contained all the principles and practice adopted by the Inquisition in Spain and Portugal; but as these political and ecclesiastical portions of the law were added in Spain after the expulsion of the Visigoths from France, they probably had little force beyond the Pyrenees. In this law as in the Burgundian, the Romans and the Barbarians were placed on the same footing.*

It was thus in the progress of time and during a period of three centuries that the different codes were formed under which France was originally governed. The first inroads of the Franks† as early as the year 240 were unsuccessful; they were repulsed by the Roman governors. Partial settlements were afterwards effected by them in Belgium without any opposition from the Roman provinces; and further south they were allowed to settle upon the left bank of the Rhine on condition of serving in the Roman armies. They who established themselves in Belgium were called the Salian, they who occupied the banks of the Rhine the Ripuarian, Franks; and as the Roman provincial government became feebler, new bands of these Germans settled themselves without any permission or condition of service; but no irruption like that of the Goths appears ever to

* The opinion assigning to Pharamond the foundation of the Salic law is supported among others by Goldast, and successfully opposed by Eccard. But Wraida (1808) first fully examined the supposed prefaces to the editions of it, and his account has been followed by M. Guizot. (*Civ. Fran.*, Leç. ix.) The general reader who seeks for information respecting the history of the Four Laws may consult the *Civilization Française of Guizot; Savigny's History of the Civil Law; Mr. Hallam's Europe in the Middle Ages;* the learned article *Loix*, in the *Encyclopédie Méthodique;* and *Montesquieu's Esprit de Loix*, liv. xxviii.

† By Franks is to be understood a confederation of German nations on the right bank of the Rhine—the Chauci, Cherusci, Catti, Sicambri, and others, living between the Mayne and the Weser. The Salian Franks are supposed to be those who came from the banks of the Sale; but some have derived the name from the suddenness and impetuosity of their movements, *à saliendo.*

have been made by them in a body. At the end of the fourth century they had acquired considerable power, and used sometimes to attack the Romans and sometimes the Barbarians. It was the great irruption of the Goths, Huns, and Alans, in the middle of the fifth century, which reduced the Roman power to extremities and enabled the Franks under Clovis to establish themselves more generally and permanently in the country. But though Clovis defeated the Normans, Burgundians, and Visigoths successively, his power was only nominally extended over the great space which his armies traversed. His real and firm dominion and that of his sons was still confined to the northern and eastern portions in which the Franks had originally settled; and the generals or governors whom he left in the southern and western parts of the country were obliged to rule by the same laws which they found in force when the Visigoths and Burgundians were unsubdued. Thus the law during his time and that of his successors was the four codes, Salic, Ripuary, Burgundian, Visigoth, and with these the Roman.

Clovis by his conquests and his conversion to Christianity left behind him a name around which tradition, as so often happens, collected much of what others before him had done; and he has also received the credit of much that was done after him. But he is called the founder of the First race with justice, although their name of Merovingian comes from Meroveus or Merovée, his grandfather, of whom little or nothing is known: indeed some have supposed that the name comes from Marobad, a German king or chief of the Franks before their settlement in Gaul; while others deny that the appellation can be traced back beyond the tenth century.

The crimes of Clovis, in which he indulged notwithstanding his conversion, have entirely sullied the glory which his valour and fortune had acquired for him. Beside lesser enormities, he murdered no less than five foreign princes, some of them with his own hands. His descendants were distinguished by the same cruel and bloodthirsty disposition, and their history is a constant narrative of brutal and treacherous murders.

The kingdom was now divided into two great portions under different princes, the one called Neustria, lying between the Meuse and the Loire; the other Austrasia, between the Meuse and the Rhine: the former having fewer Franks and more

Roman inhabitants; the latter having the greater proportion of Franks. In Neustria or Roman France, as it has been called, the Frankish or German customs had fallen much into disuse; the national assemblies had ceased to be holden; and many even of the Franks had come to live under the Roman law. In Austrasia, or German France, those customs continued to be the rule; the assemblies never were disused and the Roman law had little sway. Neustria for a long time had the preponderance in the constant struggle between the two divisions, and its princes succeeded during four several reigns in uniting Austrasia with it under their dominion. This junction existed at different times for nearly forty years in the sixth and seventh centuries, but afterwards the German part of France (Austrasia) gained the ascendant. The inhabitants were more warlike; their nobles had induced those of Neustria to join them in resisting the tyranny of an oppressive regent, but a woman of great capacity, Queen Brunehault (or Brunechilde), and the Neustrian nobles had urged on their King Clothaire II.* to lend the Austrasians his assistance: the Queen was dethroned and put to death with the greatest indignities; and this gave an increase of influence to the German as against the Roman party. In Austrasia too the power of the Crown was soon after entirely usurped by the Mayors of the Palace during the reigns of a succession of Princes who are represented as of weak intellects and termed *Rois fainéans* (incapable or simple Kings); but whether they were all really so may be questioned; for they were kept close prisoners by the Mayors, and only shown to the people once a-year, when they appeared in public to ratify the edicts made by the Mayors. The office of Mayor, having in time become elective, that is, being conferred by a cabal of the chiefs, was made hereditary by the first able and powerful man who held it. One of these Mayors, Charles Martel [714-751], had distinguished himself and had extended the power of the Austrasians by great victories obtained over the Saracens who invaded France from their settlements in Spain, and over the Thuringians and other Germans in the north. His son Pepin was enabled by the power which the Austrasians thus acquired to unite Neustria under his government, and he founded the Second or Carlovingian race, leaving the kingdom undivided to his son Charlemagne [768].

* The names of Clovis and Clothaire, sometimes written Chlovis and Chlothaire, sometimes Hlovis and Hlothaire, were afterwards softened into Louis and Lothaire.

This union of Neustria has accordingly been regarded by some writers as in a great measure a conquest by the German tribes. The overthrowing of the Merovingian dynasty certainly was a revolution effected by the great landowners or feudal lords in favour of a chief who was the most powerful among their number, and it was effected by the Austrasian and not by the Neustrian aristocracy, whose power was much less consolidated, and who never had reduced their princes to the nominal and shadowy existence of the Austrasian sovereigns.

The office of Mayor of the Palace was borrowed apparently from that of *Prefectus Prætorio*, under the Roman Emperors. Until Constantine reduced their power by making the authority merely civil, the prefects had almost the same authority with the Turkish grand vizier, and having the command of the prætorian guards not unfrequently disposed of the Crown. After Constantine there were four prefects presiding over different departments, but the care of the imperial household was confided to one, and the Mayors of the Palace to the Frankish kings were the remains of this functionary. The office appears to have existed from the earliest times, for the historians who wrote in the first part of the sixth century speak of it as already an established institution. From having the care of the household and the presentation of petitions to the Prince, the Mayor came to be the chief minister, and at the end of that century he had the command of the forces also. In Neustria his power never was so great as in Austrasia, where the princes ceased to name him, the great lords having sufficient power to appoint him. A succession of weak princes probably facilitated his usurpation; and it could only be from the superstition of the people attaching some ideas of a sacred character to the hereditary kings that these were suffered to continue with the name only when divested of all the attributes of royalty—even of its state. For it is a mistake to suppose, as some have done, that they were treated with the outward respect due to their station and only deprived of its authority. This probably was the case during the first reign or two of the *Rois fainéans*, or *insensati* (as they are termed by historians); but Eginhart, the confidential friend and supposed by some to have been also the son-in-law of Charlemagne, describes the Merovingian king as only allowed to possess the small farm-house (villa) where he lived, and as driven by a cowherd in a waggon

with oxen to the palace when he was ordered by the Mayor to attend and receive ambassadors or sanction edicts. Except the privilege of wearing long hair and beard he was not distinguished from the rest of the people. The superstition in favour of the family seems to have been overcome by appeals to a superstition of another description; for Pepin, when he finally dethroned the last of these miserable creatures, Childeric III., and shut him up in a monastery, obtained the sanction of the Pope, having first put a question to the Pontiff, whether or not the real king was he who had the power; and after obtaining his answer, and being in consequence elected by the general assembly, he made the succeeding Pope come and consecrate himself, his wife, and his son.

The usurpation of the Mayors closely resembles that of the great officers in some of the Asiatic monarchies. In the twelfth century the sovereign power in Japan was, as we have seen (Chap. vi. p. 188), engrossed by the general-in-chief, and only the ecclesiastical supremacy left to the king.—Towards the end of the seventeenth century the Rajah of Sattarah, chief of the Mahrattah Empire, was set aside by the chief minister, the Peshwah, who made his office hereditary in his own family and reduced the power of the prince to a mere name. This happened to the second Rajah in succession after Sevagee the founder of that empire.—So too in Tonquin, the Chû-Vua appears to be the real governor and the king a nominal functionary.—Again, at Bagdad in the ninth century, the Calif was only the nominal sovereign, the Ameer ul Omrah, a Turkish general, ruling in his name.—The indolent and effeminate habits of the Eastern princes in all these cases have produced the same effects with the weakness of the Merovingian kings; and the usurpers have in both Asia and Europe been enabled to accomplish their designs by their influence with the soldiery, or the support of the chiefs, or both. The superstitious regard for the reigning family appears to have in each instance produced the same effect of preventing for a length of time an open and avowed usurpation.*

As Pepin's success was mainly owing to the power of the Austrasian nobles or great landowners, and as they were to a certain degree joined by those of Neustria, the influence of the Aristocracy was extended and that of the Crown diminished by

* The last Visigoth kings in Spain were nearly as incapable as the Merovingian in France; and the government was in the hands of their generals.

the revolution which placed him on the throne of both kingdoms. In the time of Clovis and his immediate successors, the Crown's powers had been shared with assemblies of the chief men and clergy, and sometimes with more general meetings of the people. But after about half a century those assemblies had been laid aside and the Crown had gradually become more absolute. The precise extent of the power exercised by the Mayors depended of course much upon the personal qualities of those officers, and must have varied from time to time accordingly. The king in Neustria sometimes availed himself of their aid against the encroachments of the nobles; in Austrasia the nobles more frequently joined the Mayor against the king during the time immediately after Clovis's death when there was a struggle with his successors for superiority. But from the time of Arnoul and Erboin the first Mayors, who exercised considerable influence at the beginning of the seventh century, to that of Pepin in the middle of the eighth, the Mayor's power as against the Crown was continually increasing, and as against the people, or rather the great landowners, it was generally speaking considerably reduced.

The checks on the power of the Crown were in those times as in all others, the assemblies and the judicatures; but our information as to both is extremely scanty. That nothing like regular and stated assemblies for deliberation on general affairs were held under the Merovingian race may easily be assumed. But it should seem that once a-year a meeting took place in the month of March in an open space thence called the *Champ de Mars*, and that tributes and gifts were then presented to the sovereign, and edicts published to the people. In the times when these edicts were made with the consent of the assembly, that is during the reign of Clovis and his immediate successors, and afterwards during the seventh and early part of the eighth century, the great men alone appear to have been consulted, that is the chiefs and the priests. If the people or the body of the soldiers were ever appealed to, it was only when some expedition was in contemplation and their assistance became important, or when an usurpation was contemplated by one contending prince upon another, or by an officer upon his sovereign. Anything like general assemblies to control the Crown or to share in the government cannot be traced under Charlemagne and his immediate successors, or under the Merovingian

kings. The assemblies were held to assist them, often to watch and superintend or control those chiefs who came and who deemed it a burthen to come, a burthen from which the most powerful ones escaped. But there can be no doubt that in their own neighbourhood the people exercised judicial functions. There were assemblies held in each county, others in each hundred or subdivision of a county, and for some time in each tithing or decenary,* though these fell early into disuse. Those assemblies called *Malla* or *Placita* were presided over by the Count or his deputy the *Vicarius* or *Viscount* or *Viguier*; *the Centenary* and *Decan* or Dean respectively. At first they were held weekly, but afterwards only monthly. They were attended by the *Rachimburghs* or *Rachimburghers*, called in Lombardy, and sometimes in France also, the *Ahrimans*, who appear to have been originally the free residents of the district, but who in the course of time became all attached to some landowner as his vassals in the way described already (Chap. viii. p. 289). These were the judges and decided in all cases, the Count or other presiding officer only carrying their sentences into execution. Causes of inferior importance came into the hundred courts; all those of moment came before the Count. The local affairs of police and defence seem also to have occupied these meetings; and all transactions of importance to individuals, as sales, exchanges, pledges, took place at them for the sake of the publicity and interposition of the public authority which tended to give them more binding force. The jurisdiction of the Rachimburghers at these assemblies continued until the time of Charlemagne, although they prized it so little that their attendance was deemed a grievance, and becoming less frequent occasioned the other arrangement of *Scabini* or *Echevins* to be substituted, of which we shall afterwards speak. These meetings were quite different from and independent of the others held by the barons or landowners or lords, each on his own property, and attended by those who lived upon it, his vassals, for the regulation of their concerns as connected with the property and with their duty towards the lord. But there, as in the general courts, they who attended were the persons to decide.

It has often been said that the Crown was elective under the First race; and this is in a certain sense true; for there

* The *Mallum* was a meeting for civil, the *Herebannum* for military purposes,

was no regular order of succession established, and the person of the Merovingian family who should succeed upon any king's decease was pointed out by the cabals of some powerful leaders when the party himself did not interfere by having a body of followers. No rule of seniority appears to have been observed, or even of legitimacy; nor indeed any rule at all except that of always excluding females from the crown itself; although, as in the celebrated casess of Fredegonde and Brunehault, they were not excluded from the regency; and in one instance, an infant having been appointed to succeed as Mayor of the Palace during his father's lifetime, and the father (Grimoald) being assassinated before the child was of age to govern, his grandmother acted for some time as his guardian and governed the kingdom till Charles Martel seized the office. It is certain that the form at least of election was maintained throughout, even under the second race. In the latter part of the ninth century we find the assembly proclaiming that they "elect and confirm Charles the Bald, king, of their full consent;" and Louis-le-Bégue swearing as "constituted king by the grace of God and the election of the people."—(*Montlosier, Mon. Fran.*, i. 57.)

The election of bishops was apparently not more regular than that of kings. In the earliest ages of Christianity they were certainly chosen by the Church, that is the congregation, and this continued for some time after their office had become one of power and emolument. Temporal rulers then interfered, and occasionally carried the appointment by force when the people would not submit to their nomination; generally however there continued to be a proceeding of an elective kind, and the prince interfered with the electors, the clergy and the people, rather by his influence than by usurping the power of selection. The clergy, the ecclesiastical body of bishops and priests, exercised great and constantly increasing authority under the Merovingian race. Their possessions were extensive; their chiefs ranked among the *leudes* or companions of the sovereign, the earliest nobles, and they were on all great occasions appealed to, sometimes as allies by one party against the other, sometimes as mediators between both, in the contentions which arose for power among the princes of the different states, or among the authorities, the prince and the great chiefs, in each. It cannot be doubted that in so barbarous a state of society, in times so full of violence and treachery, the influence of the Church was altogether bene-

ficial, and that to its authority the people owed whatever mitigation was effected of public crimes and general suffering in that dismal period. The ecclesiastical power too was the only thing approaching to a regular institution which those ages presented. In the sixth century no fewer than fifty councils were held in France; in the seventh only twenty;* and although the greater part of their deliberations were upon matters of doctrine and discipline, not a few of the canons and other resolutions which they promulgated related to the temporal concerns of the clergy, some of them to matters merely laical; and many of the meetings appear to have been not only summoned by the prince but attended by laymen of weight in the country. Provisions concerning the treatment and enfranchisement of serfs were repeatedly made without regard to the ownership being in the Church. All questions relating to ecclesiastical property were disposed of though directly affecting rights of laymen. Prohibitions of marriage unconnected with the Levitical law, as for want of consent of parents, were enacted (council of Orleans 541, of Paris 557). Oppression of the poor generally was forbidden, whether on the part of judges or great men (council of Tours 567, Macon 585). Regulations binding upon all innkeepers were established (Chaumont 535). Treaties between sovereigns were confirmed (Andelot or Andely 587).—It is hardly necessary to add that the tendency of all the legislation of the Councils was to increase the power of the Church and withdraw her ministers as much as possible from secular jurisdiction. The Council held at Paris in 614 by Clothaire II., and attended by seventy-nine bishops, contributed greatly to this extension of ecclesiastical power. For beside making provisions for securing episcopal property from all secular interference, and for preventing individual ecclesiastics from interfering with Church property, it obtained an acknowledgment from the Crown that the right of electing bishops was in the clergy and people, subject to the prince's confirmation. Before the end of the First race the Church also obtained the important privilege of asylum, or of protecting from the civil power all who took refuge in churches, and the right of having clerical to sit with the lay judges in causes where clergymen were parties.

* Many more were held in the next two centuries; in the eighth, 147, and in the ninth, 121.—It is to be observed that the Western monarchs differed from the emperors of the East, in never mixing themselves with controversy on religious dogmas.

Pepin le-Bref, founder of the Second or Carlovingian race, was succeeded by his sons Charlemagne in Neustria and Carloman in Austrasia. Charlemagne upon the death of his brother, whom he is by some suspected of having murdered, drove his children from the country, and seizing their dominions not only retained the sovereignty of the whole French territory as established by his father, but afterwards extended his dominion over Germany, Italy, and the northern portions of Spain as far as the Ebro, where however his authority appears never to have been firmly established. At Rome he was crowned Emperor of the West by the Pope, whom he had been invited to assist against some refractory Romans; and his title was several years afterwards (812) acknowledged by the Emperor of the East. His reign was marked by atrocious crimes, of which the most horrid and the best authenticated is the butchery in cold blood of 4500 Saxon prisoners, whom their commanders had delivered up to him as a mark of their submission, and whom he put to death in one day. Nevertheless, beside the great exploits for which he is famous, and which led to the important result of finally putting an end to the invasions of the German tribes, the Saracens, and the Lombards, by the union for many years of the territory on both sides of the Rhine under one government and by decisive victories over the other Barbarians, he is also remarkable for having formed plans of civil polity greatly in advance of the age in which he lived. This indeed is the principal reason why most of the changes which he made, and his improved manner of administering public affairs, did not long survive him. The vigour of his government for the first time introduced some degree of order among the barbarous tribes that peopled the country; and the anarchy which had prevailed from the unbridled power of the chiefs was reduced to something approaching the exercise of regular power by his determined assertion of his own authority; but under his successors the power of the barons became more exorbitant than ever, and the authority of the Crown was for the most part little more than nominal. He made severe regulations against the custom of private war, and succeeded in nearly putting it down; but it afterwards broke loose from all restraint and became more fierce and more general than ever.

Some of his improvements, however, seem to have taken root and continued efficacious. The non-attendance of the rachimburghers

required some remedy, and after relieving them by confining the mallum or court to three meetings in the year, and still finding the attendance scanty, he directed the counts or governors of provinces or other local magistrates, as the centenaries who ruled over the hundreds, to name persons who might assist them in administering justice. These were called *Echevins* or *Scabini*, from the German word *scheben*, a knowing man, a judge.* They were sometimes also called *savii*, *barons*, and *senators*; they exercised judicial authority, but only as assessors to the count or viscount or centenary; whereas the rachimburghers originally exercised the whole jurisdiction of the court and the magistrates only executed their sentences. Their numbers varied according to the extent of the district, being sometimes only two or three, sometimes as many as eleven or twelve. These nominations were confirmed by the royal commissioners (Missi Dominici) whom Charlemagne sent four times a-year round his dominions to superintend the proceedings of the counts, enforce the law, and report to himself what interposition might be required on his part. The Missi also removed the échevins for misconduct and appointed them when the count or centenary had not done so. It seems probable that the choice of échevins, when the power of the Crown decayed under his successors, fell into the hands of the suitors attending the courts.† Certain it is that in the towns they came to be chosen every two years by the magistrate with the concurrence of the chief citizens; and although their judicial functions gradually were lessened till at length they had in most places only jurisdiction in matters of police and local administration, their institution and their choice by the citizens continued in all the towns of France until the beginning of the eighteenth century, when by an edict of Louis XIV. (1704) two perpetual échevins were created for each town except Paris and Lyons, where they continued on their ancient footing. They had rights of nobility for themselves and their descendants in the first generation ever since 1371; but in 1577 this was confined to such as had borne

* Some derive it from the word *eschewen*, to eschew. They were called in Latin *scaviones* or *scapiones* as well as *scabini* or *scavini*.

† The notion that the échevins were originally elective appears wholly groundless. It arises from the circumstance of their generally being appointed in or at the mallum, the provincial or district court. But the Missi appear also to have named them, and reported their nomination to the Emperor, out of that assembly and without any reference to it.

the office for twenty years. They formed a court with the Prévôt des Marchands, a chief of the trades, and had different names in different places. Generally they were called échevins, but in Bordeaux, *Prætors*, in Guienne, *Consuls*, in Toulouse, *Capitouls*, and at Rochelle and elsewhere, *Peers* (*Pairs*). The judicial functions of the échevins continued at Paris till 1251, but down to the period of the Revolution there were four to act as magistrates with the Prevôt des Marchands in police matters, and they were chosen, two every two years, by the chief burgesses (*notables bourgeois*). In other parts of Charlemagne's dominions the institution appears to have remained more entire. Thus at Amsterdam and Rotterdam the seven échevins retained to the last their jurisdiction both in criminal and civil causes.*

We have traced the history of the échevins thus beyond the time of the Second race with which we are now occupied, both because it affords a refutation of an opinion exceedingly prevalent that all Charlemagne's institutions became extinct almost immediately after his death,† and because it furnishes an example of the difference between European and Eastern monarchies. The échevin of Charlemagne differed in extent of jurisdiction and also in not being elective from the échevin of modern times; but the one office is plainly the remains of the other, and the elective character which it obtained and preserved; though with diminished powers, formed an important acquisition to popular rights, inasmuch as any one institution unconnected with the Crown must always operate directly in restraint of absolute power while it also keeps alive the spirit of independence.

The national assemblies of Charlemagne next demand consideration. Of these he held many beside the regular local assem-

* Most authors had fallen into the error of confounding the Rachinburgi or Ahrimanni with the Echevins or Scabini; among others, the writers of the *Encyclopédie Méthodique*, who quote Marculphus to show that in the reign of Clovis II. there were officers called Scabini Palatii,—Marculphus's Formularies having been compiled long before Charlemagne (660). But Savigny has proved to a demonstration the difference between the Rachinburgi and Scabini, (*Histoire du Droit Romain*, vol. i.) and his doctrine has been followed by Guizot, *Essais sur l'Histoire de France*.

† The Missi, a much more important institution, indeed the great instrument of Charlemagne's administration, lasted but a short time after his decease; something however of the same kind, though far less perfect, was tried by successive kings at different times and under various names after the power of the Crown was restored on the decay of the Feudal System.

blies, the Malla, or Courts of the districts. There remain *capitularies* or records of the laws and orders made at above thirty of them. But he held one every spring and autumn, unless some extraordinary state of affairs, as the emergency of his foreign wars, prevented it. Business of every kind, political, judicial, and legislative, was transacted at them; and so far from being any kind of check upon the royal authority, they were called by Charlemagne, and the attendance at them enforced,* for the purpose of assisting him in his government, by the weight and influence in their several districts of the barons and clergy who attended, and by the information which they and the echevins and other office-bearers gave him as to local affairs. The assembly was held in the open air when the weather permitted it; otherwise in different buildings; in which the laymen and the priests sat separately when they were discussing their several concerns, and together when the subject was of a mixed nature, affecting both lay and clerical interests. It appears that there was often a want of room for the whole meeting, and in that case the persons of inferior note were excluded. There seems no reason to suppose that any but landowners attended; and probably the more considerable from each county. The business was conducted by communications with Charlemagne, generally by messages to which he returned his answers, expressing his determination or commands upon the matters submitted to him; but he frequently attended the assembly at their desire and consulted personally with them. Nothing can be more clear than that in all these proceedings they acted in subserviency to him, and merely as his councillors and assistants in the government, without exercising any control whatever upon his proceedings. In the decision of all questions, whether legislative or administrative (the latter being by much the most numerous), his will was the rule, and his power appears to have been supreme both in planning and in executing whatever was resolved upon. There seems reason to believe that the laymen attending were all in some employment under his government, either as dukes or

* His proclamations were in such terms as these—"Ut ad mallum venire nemo tardet, primo circa æstatem, secundo circa autumnum." Afterwards his successors were obliged to dispense with the attendance. Thus Charles the Bald gave the barons, and those who holding land allodially were not bound to service, leave to absent themselves from the two yearly assemblies, and only required them to attend him for the defence of the country (nisi solummodo ad patriæ defensionem pergant).

counts, governors of provinces,—or as echevins attached to counts —or as commissioners whom he had employed (Missi Dominici); and most of the bishops owed their appointments to him. That a meeting thus constituted should exercise any authority hostile to his seems eminently improbable, even if he had left them more free legislative functions. Their only independent authority appears to have been the judicial power which they were allowed to exercise. Whether in order to free himself from embarrassment in cases where difficulties might arise from the importance of the subject and of the parties, or in order to clothe the decisions with more authority, he suffered all great causes, disputes between the governors, claims of or against his sons, questions with conquered provinces, controversies among these, to be adjudged by the national assemblies. How little he felt them any check upon his government is manifest from this, that when the proceedings of the Saxon assemblies began to interfere with his power, and to indicate a disposition on the part of those meetings to have an opinion of their own, he at once ordered them no longer to be held unless expressly summoned by his commissioners (Missi).

In the time of his immediate successors these assemblies were continued; and Louis le Debonnaire, his son, in one of his capitularies requires each count to bring with him twelve echevins (Scabini), if there be as many in his county; if not, to make up the number from the more respectable inhabitants (meliores homines). The Missi appear soon to have fallen into disuse. Five-and-twenty assemblies are known to have been held by this prince, but they were only scenes of contention among the barons, or between the laymen and clergy, or with the Crown; and in the reign of his son and successor Charles the Bald, what are called assemblies by historians appear to have been meetings of a few powerful individuals to carry on their disputes with the sovereign. Though the feudal system had not become completely established, yet the division of the country and the power of the barons was settled; and the vigorous arm of Charlemagne which had maintained the authority of the Crown and preserved the unity of the empire, being withdrawn, the whole was divided into large baronies resembling petty kingdoms, each of which obeyed a master, hardly acknowledging even a nominal allegiance to that one of their number who was called the Sovereign, but was little more than the lord of one of the largest baronies. But this was only

a recurrence to the earlier state of the monarchy which Pepin and Charlemagne had changed. The aristocracy had made great progress under the first race. The Crown appointed to the great offices of dukes and counts, the former of whom had a military as well as civil jurisdiction, and probably a more extensive district than the latter; the Crown also named the margraves, or counts of the frontier provinces. But as all these and similar offices had been elective originally among the Germans, it is probable that after the Franks settled to the westward of the Rhine the absolute nomination was not vested in the prince; and it is certain that before the termination of the Merovingian dynasty the royal authority was too feeble to leave an arbitrary choice in the Sovereign; he must name one or other of the more powerful barons on every vacancy. Charlemagne however exercised the absolute and uncontrolled choice of all his governors and their deputies, vicars or viscounts, and removed them at pleasure, as well as the centenaries or governors of hundreds. The courts of these officers had, as we have seen, been under the first race composed of the rachimburghers or free inhabitants of each district, over whom the barons, whose vassals they were, had great authority; and as the rachimburghers were the judges, the count or centenary being only the executive office, the barons must thus have had great sway through their vassals. But Charlemagne entirely destroyed this by substituting the echevins for the rachimburghers, those echevins being appointed with his sanction through his commissioners (Missi), and sometimes directly by their nomination. The jurisdiction of the barons in their own courts was also controlled by him: they were subject to the Missi, who on their circuits four times every year examined minutely into the proceedings of all the courts, as well those of the barons as those of the counts and centenaries, and compelled the barons to administer justice. In truth the circuits of these Missi were the effectual control over all the departments; and as they were empowered in many cases to displace wrong doers, and in all to report the neglect and misconduct of every functionary, the prevention of all encroachments, whether by the barons or by the crown officers, was secured. How minutely he interfered with them appears by the instructions to the Missi respecting them, as well as by other parts of the capitularies. In one, the counts are ordered strictly not to shorten the sittings of the courts for the sake of the chase

or other amusements; in another they are desired to hold their courts fasting and with a cool head; in another, to have good clerks who can write a legible hand. If they neglect their judicial duties the Missi are to quarter themselves on the provinces until the counts perform their duties, and the Missi and counts are to quarter themselves in like manner on the barons who neglect their manorial courts.

Charlemagne appears to have curbed the ecclesiastical as effectually as he did the baronial power. The great military force, and the extraordinary fortune, which enabled him to make such important conquests, to carry on fifty-three expeditions, and gain twenty pitched battles, without ever suffering any disaster, and it should seem with only a single mischance (that of Roncesvalles) gave him a weight of authority, as well as of direct and solid power which nothing could resist. Accordingly we find him treating the most elevated persons in the Church with as little ceremony as the most ordinary portion of his subjects. Among his instructions to the commissioners (Missi) which remain, we find directions to examine the whole conduct of clerical as well as of lay functionaries, to inquire into the whole discipline even of the dignified clergy, and in case the archbishops cannot or will not apply a remedy, to bring the cases before the emperor. But this is not all; for his reprimands and remonstrances addressed to those who attended the national assemblies, and publicly administered to themselves in person, also remain; and we find him not only calling on the assembly to define, or rather to assist him in defining, the bounds of lay and spiritual authority between the clergy and the counts, but calling on the bishops and abbots to "declare the meaning of three words which they have always in their mouths, *renouncing the world*, to say by what marks you shall know those who have renounced it, and whether the only proofs they have given of this renunciation, are the not bearing arms, and the not being openly married." In the same capitulary (811) he desires them to be further asked, "if that man has renounced the world who is daily labouring, no matter by what means, to increase his possessions, now promising with this view the blessings of heaven, now threatening the pains of hell, or in the name of God or some saint despoiling of his property some person, whether rich or poor, but simple and inconsiderate, so as to disappoint his lawful heirs, and thus drive them through utter penury to com-

mit, almost of necessity, riot and robbery." But he did not rest satisfied with remonstrances; he exercised an appellate jurisdiction over all ecclesiastical disputes, whether between bishops and barons, or among the clergy themselves; and although by one of his capitularies (803) he had confirmed the right of choosing bishops to the clergy and people, he almost always took upon himself their nomination, so that the election in his time, and even for half a century after his death was little more than nominal. A chronicle is extant in which he is represented as promising to a certain description of students who had distinguished themselves much beyond those of higher rank, that he would reward them with bishopricks and abbacies; and there are letters from the pope to his immediate successors, applying very humbly for church preferment as if they had the undisputed and undivided patronage.

Although, however, Charlemagne kept the clergy under control and governed the country himself, it is certain that he availed himself of their influence over the people as much as possible; and he probably found that he effected this purpose better by mingling conciliation with firmness. Whenever he could do so without yielding his authority or endangering it supremacy, he paid them court, and he even supported their influence by substantial assistance, while he was sure that he should find in their authority an auxiliary and not a rival to his own. He is commonly represented as having first given the Church its right to tithe. Selden and Montesquieu agree in this statement, and it is certain that at one of his assemblies, that of Frankfort (794), he made an edict ordering all men to pay tithes, and ascribing to the withholding of them a recent scarcity, accompanied with interposition of dæmons. But this edict was by no means the origin of tithes, nor was it effectual in compelling the payment of them generally, if such was its object. The superstition of the people having enabled the clergy to obtain possession of a large proportion of the whole land in the country, attempts were at different times made by the mayors under the first race to regain part of these domains for the use of themselves and their followers. This was generally done under colour of borrowing the domains as it were, and holding them on payment of a rent-charge; the possession thus obtained being termed *precaire* (*precarium*, that which is begged or prayed); and

Ebroin in 660, the mayor who governed in the nominal reign of Clothaire III., made encroachments of this description. They were repeated to a much greater extent by Charles Martel, who in the necessities to which his military operations reduced him, appears to have seized upon the greater part of the church lands and granted them out as fiefs to his followers. The rent-charge was probably paid very irregularly in these cases; and when his son Pepin was desirous of obtaining the favour of the clergy to aid him in his usurpation of the Crown, the father having failed to accomplish the same object chiefly from their vindictive opposition, he endeavoured to restore some of their property; but as he could only effect this where the feudatories had forfeited it, or were extinct, he enforced the payment of the rent-charge, and to give a better security, he had an edict or canon (for it was at a council) made at Leptines in 743,* by which tithe was directed to be paid for all those appropriated church lands, together with a sum of money for each house. The edict of Charlemagne was for the purpose probably of enforcing this payment; but it seems not to have been confined to the church lands, for he subjected his own domain lands also to the payment. At first the tithe was very ill paid: in all probability little or none was received except on the church lands; and it seems clear that but for the appropriation of those lands the right never would have been established. The clergy had indeed of old endeavoured to obtain a revival of the commandment in the Levitical law; but they had rather proceeded by way of exhortation than claimed it as a right. On the contrary, St. Augustin had expressly declared in the fifth century that the commandment was confined to the Jews, and had no application under the new covenant; the Council of Macon more than a century later (567) had confined itself to exhortation merely on the subject; and though subsequent councils threatened excommunication if the payment was withheld, their orders were disregarded, and it never was treated as a temporal right before Pepin's time, nor fully admitted to be such before Charlemagne. His edict divided the tithe into four portions, assigning one to the bishop, one to the poor, one to the fabric of the church, and one to the incumbent who did the duty. Before his time the

* Pepin certainly pursued this policy; and he is usually represented as having called the Council of Leptines; but it rather seems that Carloman called it, not Pepin.

whole property of the Church had been vested in the bishops and abbots, who used it at their discretion, and generally left the incumbent to be supported by the voluntary contributions of the faithful. The edict did not effectually restrain this episcopal power; for the dignitaries had the management of the revenue and were under no effectual control of their superiors, the metropolitans or archbishops. It is remarkable that in the same age tithe was established in England as well as in France. The clergy there had long preached in favour of it, but in vain; and a synod, or council, in 786 strongly urged it by their canons; but no effect was produced upon the people, until a few years after Charlemagne's edict, when two of the kingdoms of the Heptarchy made laws recognising the right; and afterwards, Ethelwolf, in 850 adopted Charlemagne's edict both as to the payment and the distribution.*

Charlemagne rendered other important services to the Church. He not only lent the aid of the temporal power to the enforcement of the canons which the councils were constantly making for regulating discipline, but he gave all ecclesiastics the invaluable privilege of being only tried before clerical judges; and he further exempted all causes touching church property from the civil jurisdiction in the first instance, reserving only to the count or other judge the decision upon appeal from the bishop's sentence. Such precious rights might well make the clergy overlook the vigour with which he asserted his own prerogative, even though in many points it came into conflict with their interests. But indeed how far they valued the obligations which they owed him may be seen from their treatment of him; he was canonised after his death, notwithstanding the many enormities of his reign and the profligacy of his private life, especially in that particular on which the Catholic Church was always so jealous, his licentiousness with regard to women. His grandfather, Charles Martel, on the other hand, was regarded as doomed to perdition, insomuch that a synod, in their pastoral letter to one of his successors (Louis the Germanic) describes him as suffering in hell, although to this great warrior the salvation of the Church and indeed of Christendom

* Blackstone erroneously terms the treaty of Edward and Gothrum in 900, "the next authentic mention of tithes" after the partial confirmation of the canon 786.

was to all appearance owing; but then he had, beside defeating the Saracens and driving them beyond the Pyrenees, presumed to appropriate the revenues of the bishops and abbots in the exigencies of the state. Charlemagne had never rendered such services to the Church as Charles Martel; but then he had increased its revenues and enlarged its powers over the people; and although he had asserted vigorously his own rights, reformed many of its abuses, and curbed the pretensions of its individual members when they interfered with the Crown or the public peace, yet he had never encroached upon its possessions or lowered it as a body.

A very important change which began to take place in the conduct of the clergy, particularly those of the higher orders, towards the end of the second race, and to which Charlemagne's reforms certainly contributed, had the effect of greatly increasing both the wealth and power of the Church, and of eventually bringing back to it much of the landed property which Charles Martel and others had seized. The prelates during the time when they possessed from a third to a half of the land in the kingdom, had thrown off all regard to the duties of their station, and led lives more of a secular than a clerical caste. They for the most part belonged to the families of the powerful chiefs, and had entered into the Church only to possess its endowments. Many of them were noted for the profligacy of their manners; most of them were engaged in the occupations which the lay barons pursued, including not only the chase but warlike exploits—nay, some led the lives of freebooters. Councils were held in 567 and 579 expressly for the removal of two bishops who had been captains of banditti. The first of these councils deposed them; but the Pope, upon appeal, restored them both; and it being agreed that their offences of robbery could be expiated by penance, they were only deprived of their sees at the second council when convicted of high treason. The dissolution of the Church was an event almost certain to have happened through the increase of these disorders, had not the introduction of monastic institutions saved it. About the middle of the fourth century St. Athanasius, who had patronised the hermits and monks in the East, brought some of them over to Italy, where their fanaticism soon took root and spread very widely. Although they were wholly unconnected with the

clergy, and were themselves merely laymen living together in a voluntary association, as soon as their numbers became considerable and their influence over the people extensive from their mortifications and sanctity, the bishops began to interfere, and to assume a power over them. These attempts appear to have been prosecuted unremittingly from about the year 450, and to have been on the whole successful, even while the monks continued to be merely laical. But their associations were reduced into the regular system which they ever after retained by the change which St. Benedict effected. His discipline and vows were adopted everywhere before his death in 543; and a still further change had taken place before the end of the century; for the orders had then become entirely clerical, and formed a most important branch of the ecclesiastical system. A great check to the dissoluteness of the other clergy grew out of the strict observances of the monks, and the influence which they acquired over the people. But into the monasteries abuses also found their way; and the rule of the first St. Benedict having become relaxed in the course of 300 years, the second St. Benedict (of Aniane) at the beginning of the ninth century introduced great reforms; and a renewed strictness of discipline obtaining for them increased influence, had more effect in restraining the licentiousness of the dignified clergy, and thus preserving the establishment from ruin, than all that the interposition either of the councils of the Church or the edicts of the civil power could accomplish. But the monks did more than save the Church; they greatly extended its influence, and enabled it to acquire a vast additional property in every part of the empire. The power, however, which it thus gained did not, as we have seen, enable it to overmatch the state in Charlemagne's time, still less did its head, the Pope, presume to claim anything but aid and protection from that monarch. His language to the emperor was always that of submission, offering with humility to adopt such a course as he even through his commissioners (Missi) might point out. The imperial language to the same pontiff (Leo III.) betokens a due sense of the superiority thus acknowledged. Charlemagne is "happy to observe the humility of his obedience and his promises of fidelity."

Upon one important point we are left without any precise information; we know little or nothing of the military policy of

Charlemagne, and are unable therefore to ascertain how far he was possessed of such a disciplined and regular force as may explain not only the facility of his foreign conquests, but the extent of his authority at home. That he had not what is now called a standing army, a force composed of men whose only occupation is arms, and who are at all times embodied under professional commanders, is sufficiently manifest. But it seems also most probable that his troops partook more of the nature of such a force, approached more nearly to it, than those of any other prince either in his time or for some ages after it. The men whom he had at his immediate orders were no doubt the vassals of the extensive territory which he inherited from Pepin and Charles Martel as his fief; and the wars of those chiefs must have introduced a considerable degree of discipline among them. It can hardly be doubted that Charles Martel's followers had been trained to military habits with some success; for his victory over the Saracens was not gained by a sudden and impetuous attack. Those invaders had for ten years been settled in the South of France; and when they were extending their conquests in all directions, he was urged to attack them but refused, upon the plan of suffering them to weaken themselves by dispersion and by plunder and by the consequent relaxation of discipline, before he opposed resistance to their progress. They had twice defeated Eudes with prodigious slaughter, and had reached the Loire on the north, and Lyons, and even Besançon on the east, before Charles made head against them. It must have been a considerable military operation, and performed by troops under no little strictness of command, to march across the country and surprise the Saracen general near Poitiers.* After the seven days' battle too, he could restrain his men from advancing to plunder, uncertain as he was how far he had defeated the enemy; and still cautious to avoid a reverse, he dismissed his German auxiliaries because they were the least disciplined, and only continued the pursuit with his own forces when he had ascertained the extent of his victory. During the rest of his life, or for nine years after the battle, he was engaged in further contests with the same powerful enemy. His son Pepin employed the army which those campaigns must have more or less

* So uncertain are the annals of that age, that the place of this famous battle is only known within eighty miles; it was somewhere between Tours and Poitiers.

formed, in establishing his power over the Crown and over his rival chiefs; but he also carried on war for many years against the Saracens, whom he only finally expelled from France in 759; and the remaining years of his reign were chiefly passed in his wars against the Lombard, Saxon, and Guienne insurgents. When Charlemagne succeeded him in 768 he found the same military power established which had enabled his predecessors for nearly forty years to carry on constant and arduous enterprises with unvarying success.* It is certain that the force under Charlemagne was never exposed to a conflict with enemies so well able to resist as those whom both Charles and Pepin had to oppose. The Saracens were far more formidable than any of the other nations against whom the Franks fought, and except in his Spanish campaigns, in which Charlemagne is supposed to have suffered his only defeat,† he never measured his strength against them. But it seems clear enough that he was enabled to carry on both his numerous foreign wars and his vigorous administration at home by being placed in the same circumstances with celebrated chiefs in other times, and that as Alexander the Great succeeded to the resources prepared by Philip, and Frederick II. to those prepared by his father, so Charlemagne had all the advantage of the military experience and the habits of obedience acquired by his vassals under his two immediate predecessors.‡

The encouragement of learning and of learned men is one of the brightest passages in the history of this celebrated monarch. His own acquirements were exceedingly limited; it is generally said that he never was able to write; and though this is incorrect, inasmuch as charters remain with his signature, and as the passage of Eginhart, on which the statement is founded, does not

* It has been supposed by some authors, by Mably among the rest (Observ. sur l'Hist. de France, liv. 1, chap. 6), that Charles Martel first introduced the feudal plan of annexing military service as a condition to the lands granted out among his followers. If this supposition is well founded, it will account for the extraordinary superiority of the military operations during his time and that of his son and grandson, because the vigour of a new and improved system had then its full scope. But there seems no reason to believe that any new or sudden change was effected by Charles, although he probably exacted more rigorously the performance of the vassal's duties.

† He is said to have had but a very insecure possession of the north of Spain, and he suffered a defeat in the Pyrenees on his return to France, at Rocevaux or Roncesvalles.

‡ It is remarkable that in the seventh century there was no war of any moment, whereas the eighth was so entirely spent in great military operations that 740 has been observed to be the only year in which there were not one or more important expeditions.

bear it entirely out, yet there can be no question on this authority that he wrote with difficulty, and that he only learnt late in life to write at all. The greater was his merit in strenuously promoting the improvement of his clergy and his people, in establishing public schools and colleges, before his time unknown in this part of the world, and in raising men of letters to stations of eminence, as well as in frequenting their society, placing them about his person, and instructing himself by their conversation.

To him it has probably happened as to Clovis, Peter I., and others, that he is reckoned the author of changes which he did not effect; and the institution of the Missi Dominici, by far the most important part of his policy, may be mentioned as an instance; for it appears that Pepin had employed those commissioners during the latter years of his reign. But that Charlemagne employed them more constantly and systematically, extended the scope of their inquiries, and enlarged their powers, so as to make them the principal instrument of his administration, there can be no doubt. It is further to be observed that the capacity and the actions of his immediate predecessors have been obscured by the greater splendour of his reign; their power has been underrated in comparison with his wider dominion; and the greater difficulties which they had to overcome have been overlooked in the indiscriminate panegyrics of historians. This is especially true with respect to Pepin; his plans of government were certainly continued and improved by his son, and his military exploits are hardly mentioned by those whom the fame of his father and his son entirely dazzles. Yet Pepin not only gained that prize which was the object of Charles Martel's constant desire and which his great exploits never enabled him to obtain—the crown with the complete dominion over the other chiefs—but raised his power by a series of important victories to such a pitch that his alliance was courted by the emperor of the East, whose offers he rejected and upon whose dominions he was believed to have formed hostile designs, while in Germany and in Italy his influence was not much less than Charlemagne himself possessed after his conquests.

But in whatever proportions we measure out the praise due to these remarkable men, it is certain that to their successive achievements we owe the termination of the changes by which the movements of the northern nations had during four centuries involved

Europe in anarchy.* The repulse of the Saracens by Charles Martel, the establishment of the monarchy by Pepin, the wise domestic policy begun by the latter, and the resources prepared by both, enabled Charlemagne finally to settle the German, the Lombard, and the Frankish nations within their own limits, and to lay the foundation of regular government in the most important parts of Europe. With all the savage cruelty, and the unbridled profligacy of his private life,† his reign was most beneficial to his subjects; for whether it be that he really governed with the pure intention of promoting their welfare, or that by the anarchy of the times he was placed in such a position as rendered a vigorous government the greatest blessing which he could bestow, there can be no doubt that all his plans for extending and supporting his own authority, and putting down everything like resistance or rivalry, conduced to the immediate advantage of his people. A clear and impartial life of Charlemagne, free from the exaggerations which have so generally been employed respecting him, but bringing into full view the distinguishing mark of his greatness—that he lived far before his age, and began many improvements which chiefly for this reason could not take root in his country—is still a desideratum in literature, and would convey most serviceable lessons both to princes and their subjects, while it afforded gratification to enlightened curiosity.

* The only incursions of barbarians after Charlemagne which led to any permanent settlement in the country were those of the Normans; they were made by sea, and on the coast remote from the seat of government. However, a settlement was effected by those invaders, and under Charlemagne's feeble successors they finally obtained a cession of the province to which they gave their name. This was by the treaty of St. Clair sur Epte 912, under Charles the Simple. The attacks of the Saracens were all repulsed except one which led to a settlement, Frassineto, between Nice and Monaco during the greater part of the tenth century. At the end of the ninth the Huns made inroads, and in 920 they ravaged Languedoc, as they did Guienne in 954; but they were completely repulsed.

† The accounts of his nine marriages (if such they could be called), and divorces convey the least part of his offences against public decency. The notoriously abandoned lives of his daughters are described as having habitually polluted his residence; and historians have not scrupled to charge him with a share in their infamy. Gibbon plainly leans to a belief of this enormity (chap. xlix.). Muratori appears to have a similar inclination of opinion, (*Ann.* iv. part ii. p. 316) and indeed the passage cited from Eginhart is quite sufficient to create the gravest suspicions. Muratori however, while he reprobates his usurpation of the dominions of his nephews, casts no blame on him for their father's sudden death. (*ib.* p. 119.) His mock trial of his son Pepin the Crooked, whom he confined in consequence of that proceeding, resembles Peter I.'s proceedings against the Czarowitz, adverted to in chap. vii. of this work, p. 205. Gaillard, with all his partiality for Charlemagne, leaves on the reader's mind an impression most unfavourable to his personal conduct.—Hist. de Charlemagne, liv. i, chap. 6.

I.—MEROVINGIAN RACE

481 CLOVIS I. d. 511, m.

AUSTRASIA.		NEUSTRIA.	
511	Thierri I. d., 534	511	Clothaire I. m. 558—d. 561
534	Theodobert I. d. 548	561	Chilferic I. k. 584
548	Thibaud d. 555		(Q. Fredegonde d. 598)
555	Clothaire I. m. 558, d. 561	584	Clothaire II. m. 613—d. 628
561	Sigbert I. k. 575	628	Dagobert I. d. 638
	(Q. Brunehault k. 613)	638	Clovis II. m. 656—d. 656
575	Childebert II. d. 596	656	Clothaire III. m—d. 670
596	Theodobert II. k. 612	670	Childeric II. k. 673
612	Thierri II. d. 613	673	Thierri III. m. 679—d. 691
613	Clothaire II. m—d. 628		Stript by Pepin Heristhal, 687
628	Sigbert II. d. 656		
656	Clothaire III. m—d. 670		
670	Childeric II. m. k. 673		*Mayors of the Palace.*
674	Dagobert II. k. 679		
679	Thierri III. m—d. 691	628	Anachise k. 674
	Stript by Pepin Heristhal, 687	687	Pepin Heristhal d. 714
691	Clovis III. m—d. 695	710	Grimoald, in Neustria, k. 714
695	Childebert III. m—d. 711	714	Theodoald, infant (Plectrude his grandmother regent), det. 715
711	Dagobert III. m—d. 715		
715	Chilperic II. m. d—720	715	Charles Martel, d. 741
	(Conquered by Charles Martel 715)	741	Carloman in Austrasia, (det. 746, d. 755.) and Pepin-le-Bref in Neustria
720	Thierri IV. m—d. 737	746	Pepin in both, d. 768
737	Childeric III. m. (Det. by Pepin-le-Bref 752)		

*** m. indicates the sovereignty of the whole monarchy; d. died; k. killed; det. dethroned.—The figures in the columns mark the years of accession.

II.—CARLOVINGIAN RACE.

752 Pepin (le Bref), d. 786, son of Charles Martel.
768 Charlemagne, Emperor 800, son of Pepin.
814 Louis I. (Le Debonnaire), son of Charlemagne.
840 Charles I. (the Bald), son of Louis I.
877 Louis II. (le Bègue), son of Charles I.
879 Louis III., son of Louis II.
882 Carloman, son of Louis II.
884 Charles II. (the Fat), grandson of Louis I.
888 Eudes, son of Robert-le-Fort, d. 898.
892 Charles III. (the Simple), son of Louis II. det. 923, d. 929.
922 Robert I., brother of Eudes, and son of Robert-le-Fort.
923 Rodolphe (or Raoul), son-in-law of Robert I.
936 Louis IV. (d'Outremer), son of Charles III.
954 Lothaire son of Louis IV.
986 Louis V. (le Faineant), son of Lothaire, det. by Hugh Capet, 987. d. 987.

III.—THIRD RACE.

House of Capet.

987 Hugh Capet, grandson of Robert I.
996 Robert II., son of Hugh Capet.
1031 Henry I.
1060 Philip I.
1108 Louis VI. (The Fat).
1137 Louis VII. (The Younger).
1180 Philip II. (Augustus).
1223 Louis VIII.
1236 Louis IX. (St. Louis).
1270 Philip III. (The Bold).
1285 Philip IV. (The Fair).
1314 Louis X. (Le Hutin).
1316 John I. (Le Posthume), born and died 1316.
1316 Philip V. (Le Long), son of Philip IV.
1322 Charles IV. (The Fair), son of Philip IV.

HOUSE OF VALOI.

1328 Philip VI. (de Valois), grandson of Philip III., and great-grandson of St. Louis.
1350 John II. (The Good), son of Philip VI.
1364 Charles V. (The Wise).
1380 Charles VI.
1422 Charles VII. (The Victorious).
1461 Louis XI.
1483 Charles VIII.

HOUSE OF VALOIS-ORLEANS.

1498 Louis XII., great-grandson of Charles V.
1515 Francis I., great-great-grandson of Charles V.
1547 Henry II., son of Francis I.
1559 Francis II. (husband of Mary Queen of Scots).
1560 Charles IX., son of Henry II.
1574 Henry III. (King of Poland), son of Henry II., k. 1589.

HOUSE OF BOURBON.

1589 Henry IV. (King of Navarre), descendant in tenth generation of St. Louis through his grandson Louis, first Duke of Bourbon, k. 1610.
1610 Louis XIII., son of Henry IV., Regency of Queen Mother till 1617.
1643 Louis XIV., Regency of Queen Mother, Anne of Austria, from 1643 to 1652.
1715 Louis XV., great-grandson of Louis XIV., Regency of Duke of Orleans, Louis XIV.'s nephew, till 1723.
1774 Louis XVI., grandson of Louis XV., det. 1792, k. 1793.

REVOLUTION.

1792 Republic—Louis XVII., son of Louis XVI.—d. 1794.
1800 Consulship—Napoleon Buonaparte First Consul.
1804 Empire—Napoleon.

RESTORED HOUSE OF BOURBON.

1814 Louis XVIII., brother to Louis XVI.
1824 Charles X., brother to Louis XVI.
1830 Louis Philip, descendant in sixth generation of Louis XIII., through his son Philip, first duke of Orleans.

*** When no mention of the parentage is made, the king is to be considered as son of the one immediately preceding. The references are the same as in the first table. Where nothing to the contrary is inserted the year of accession opposite to each name is the year of the predecessor's death.

CHAPTER XII.

THE FRENCH MONARCHY—(*continued*).

Partition of Charlemagne's empire—Louis le Débonnaire—Association of Sons in the Monarchy—Encroachments of baronial power—Of clerical power—Of Papal authority—Power of the Crown destroyed—Usurpation of Hugh Capet—Third race—Change in the laws—Compilation of the laws—History of local and general laws—History of the Parliament of Paris—Sale of offices—Opinions of Montesquieu and Bentham—Tenure of offices—Functions of the Parliament—Its struggles—Louis XIV.—The Regent Orleans—Law and Dubois—Louis XV.—Beds of Justice—Provincial Parliaments—Influence of the Parliament or legal aristocracy, compared with that of the States-General—Origin of the States—Feudal revenues—Taxation—Taille—States, general and particular—History of the States-General—Last meeting under Louis XIII.—Interval—Meeting under Louis XVI.—Revolution—Constitution of the States-General.

THE empire of Charlemagne, stretching from the Baltic to the Mediterranean, and from the Vistula to the Atlantic,* fell to pieces under his feeble successors; and the control which his vigorous administration had exercised no longer keeping the barons and the clergy in subordination, the government of each of the portions into which his dominions were divided presented a scene of almost as constant discord and anarchy as that to which his own and his father's power had put an end. During his lifetime he had pursued the course almost always taken in those times, which indicates both the influence of the barons and the imperfect establishment of the royal authority,—that of sharing his empire with his sons. In 781 two of them, then infants, were made kings, Pepin of Italy and Louis of Aquitaine.† It

* It reached to the confines of Calabria in Italy and to the Ebro in Spain; but in the former position his power was much more divided with the Pope and the dukes or chiefs, and in the latter the conquest was very imperfectly effected. In the country, too, between the Vistula and the Elbe the empire was rather that of great influence than the direct control of government.

† They were merely made titular kings in 781. Louis, being three years old, was dressed in a small uniform and armour, and paraded to the people on horseback, to receive their homage. (Gaillard, tom. ii. p. 331.) In 806 a more substantial authority was conferred on them both, and the south of Germany was

may easily be supposed that the government exercised by their officers was that of Charlemagne himself; but so it probably continued after they became of age to take a part. However, in 806, when he began to feel the weight of years, he appears to have made a more real division of the sovereignty, adding the south of Germany to Pepin's portion, and Savoy to that of Louis; while to Charles the youngest he gave what remained of his dominions, that is the north of France and of Germany; but he having died a few years after, Louis obtained his portion, and was in 813 made emperor jointly with his father. It is upon this occasion that a contemporary writer (Thegan) says the emperor asked the consent of all the assembly; "from the least to the greatest." Pepin had died before Charles, and his son Bernard then a child succeeded him; but three years after Charlemagne's death and Louis's accession, Bernard joined in some plot against his uncle, who, having inveigled him into France, had him tried and condemned to death, but mitigated the punishment to putting out his eyes; after which operation the unhappy young man died in a few days. Louis is said to have felt extreme remorse at his conduct; and from his penances and the abject superstition into which he fell,* he obtained in Italy the surname of "the

added to Italy for Pepin's kingdom; and Savoy and the Lyonnois country with Languedoc and Provence to Louis's. Charles had the rest of France with the north of Germany; and he having died in 811, Louis received his portion with the imperial title in 813, the year before Charlemagne's decease. Bernard III., son of Pepin, succeeded him in Charlemagne's lifetime as King of Italy. It is remarkable that at the division made of the empire among his sons in 806, the instrument of partition, sometimes called Charlemagne's will (it being only to receive its full effect at his decease) directs thus:—"If the son of any one of these brothers be chosen by the people to succeed him on his death, then let the uncles of that son suffer him to succeed his father as heir to his kingdom."

* Mr. Hallam (Chap. I. pt. 1) and others have observed that *pius* being often used as synonymous with *mitis*, the two appellations of Louis are the same. One passage in Muratori (Ann. tom. IV. pt. 2, p. 472) may leave it doubtful whether he did not incline to the same opinion. However he constantly dwells on his *piety* in the ordinary sense of the word, calling him *piissimo*, and even in the last cited passage he chiefly extols that quality. It is recorded of him that while on his death-bed, having for forty days eaten nothing but the eucharist, he regarded it as a judgment on him for having omitted to keep the last Lent. The barbarous nature of Louis's mind, at least in the beginning of his reign, may be perceived in his treatment of the persons who had been, and justly, accused as the paramours of his sisters. These formed a numerous body, and he pronounced all of them guilty of treason. Most of them submitted themselves to his pleasure, and, suing for mercy, obtained the promise of pardon. But one who held out killed a count who was endeavouring to apprehend him; and this so enraged Louis the Good-natured, that he ordered another of them to have his eyes put out, although

pious," though from his good-nature he was in France generally called "Le Débonnaire." He, too, joined his sons with him in the government, getting Lothaire declared emperor by the assembly of the States at Aix-la-Chapelle, and making Louis and Pepin kings of Aquitaine and Bavaria; but in a few years they quarrelled among themselves and rebelled against him; his life was passed in perpetual contentions with them: when they had the better, they obtained resolutions of the States reducing him to the most mortifying humiliations: when he prevailed he took part of their dominions and gave it to his third son, Charles the Bald, and at his death in 840 the three divided the empire among them, Lothaire having Italy with the imperial title, Louis thence called the Germanic, Germany, while France remained to Charles; but stripped of the provinces to the east of the Rhone, which with Savoy and Switzerland were added to Italy. In the time of these princes and their descendants a constant fluctuation of power and change of dominion took place, and there were sometimes divisions of each kingdom into several; France, for example, at one period being under three different kings. At other times the portions of territory were consolidated in fewer hands; but the empire of Charlemagne never was again united under one head, except for a short part of the reign of Charles the Fat, one of his great-grandsons, during the latter part of the ninth century.

This diminution of power in the Sovereign was partly the consequence and partly by re-action, the cause of the power obtained, or, more properly speaking, resumed by the barons after Charlemagne's death. It should seem that they had been during the last years of his reign gaining some ground, as the vigour of his administration declined. The oppressions committed on the people by the counts and other officers formed the subject of deliberation at the first assembly called by Louis le Débonnaire six months after his accession; it was found necessary to send Missi Dominici everywhere with extraordinary powers; and from

he was among the number that had been promised free pardon upon their submission. That the licentiousness of Charlemagne, who made his seven unmarried daughters and his five unmarried grand-daughters live in the same house with his numerous concubines, should have smitten Louis with the opposite extreme of moral fanaticism, so far from being a thing to be wondered at, is quite in the ordinary course of things; but no really good disposition could have been driven to exercise such capricious and needless cruelties, as those by which he cleansed out the crapulous residence of his father on the instant of his decease.

the language of contemporary writers it should seem that latterly these had not so regularly gone their circuits under Charlemagne.* But in little more than half a century after his time two important changes had been consummated in the position of the aristocracy by which their power was materially increased. The tenure of the fiefs had gradually been acquiring more independence; their owners had been constantly endeavouring to obtain an entire property in them, which nothing had prevented them from accomplishing but the anarchy of the times before Charlemagne and the consequent insecurity of all possessions, and the firmness of his government in resisting all encroachments. Many fiefs, however, had from time to time become hereditary; but an edict of Charles the Bald in 877 distinctly recognised the feudatory's right to transmit the fief to his heirs, they being capable of performing the service to which he was liable. Then this condition of capacity was under his successors dispensed with; and after the lapse of some time, certainly not above fifty years, during which the tenure was still somewhat precarious, the absolute right of the vassal was everywhere established. But the offices under the Crown became hereditary also.† The influence of the barons who held them increasing in proportion as their property became more secure, enabled them to obtain at first from the voluntary gift of the sovereign the continuance of those offices in their families; and afterwards they set up a claim of right. Charles the Bald recognised this in a great measure by an edict made also in 877, requiring that on the decease of any count, the government of his county should be administered by the chiefs who were next of kin to the deceased, with the other officers of the county, until the king should appoint his son, and this even in the case of his leaving an infant heir. It is plain that after such a provision the right of inheritance could no longer be disputed, or the Crown nomination be regarded as more than a form. Accordingly in the very next reign some of the counts when refused the succession took arms, asserted their title, and enforced the possession of the office. The country might thus be said to be divided among a number of petty

* Astronomus vita Lud. Pii.—Nigellus apud Muratori, tom. IV. pt. 2, p. 340.

† So prevalent was the principle of feudalising every kind of profit, that the office of Vidame, the deputy judge or viscount of the bishop, became hereditary. He had the high, middle, and low justice, to be afterwards explained (ch. xiii.).

sovereigns, rather than to be governed by a prince at the head of a powerful aristocracy. At the end of the ninth century there were no fewer than twenty-nine of these counts, dukes, marquises, and other lords, each of whom ruled in his own district, some of whom had a sway over such extensive territories as Burgundy, Gascony, Flanders, and none of whom yielded more real obedience to the sovereign of the whole country than suited his own interest or his own caprice. Before a hundred years more had elapsed the number of these principalities was increased to fifty-four, exclusive of Normandy, which since its cession in 902 to the northern barbarians, from whom its name was taken, could hardly be said even to be nominally a part of the monarchy. It may be observed, however, that their common interest appears to have made those lords allow with great good-will the continued circuits of the Missi Dominici, although of course they no longer as originally submitted to be controuled by this delegated authority. The country was divided into eighty-six districts of very various extent, some comprising as many as three counties. The Missi were, in the time of Charles the Bald, forty-three in number, and they were divided into twelve bodies, having a bishop at the head of each. At that period thirteen of the forty-three were bishops, five abbots, the rest laymen.

If the aristocracy regained and extended their power over the Crown after Charlemagne's death, the clergy asserted their superiority as fully. We have seen how entirely he maintained the supremacy of the civil power, and how even the papal authority was subjected to his prerogative. In less than fifty years we find his grandson complaining, before a council, of the archbishop of Sens for joining his enemies; and in this proceeding, which affects the character of resistance to clerical authority, the king takes care to deduce his title to the crown from his episcopal anointing, and to confess that the same bishops who had consecrated him could "try, judge, and dethrone him."—Councils, accordingly, were now held more frequently than ever. We have seen that in the seventh century there were only 20; but in the eighth there were 47, in the ninth 124; and of the 114 held after Charlemagne's decease, no less than 36 either gave extended power and rights of property to the church, or took a direct part in state affairs, such as deposing or restoring sovereigns, and excommunicating persons for their conduct in secular matters. At one of

these councils, that of Pontion in 876, an edict or canon was made with Charles the Bald's assent, giving to the bishops the authority possessed by the Missi Dominici. Of the 34 councils held in the tenth century, the proceedings at which have been preserved, twelve were of the same description, all extending the ecclesiastical power. The extension of the papal authority over the Gallican Church kept pace with the encroachments of that church upon the civil power; and in the pontificate of Nicholas I. it appears to have been fully established; for that pontiff reversed the decision by which four successive councils had permitted the divorce of Lothaire of Lorraine; he deprived of their sees two of the greatest prelates, the archbishops of Treves and Cologne (863), who had joined in resisting him; and two years after, he made one council restore a prelate, whose metropolitan had deposed him with the concurrence of another council. The ecclesiastical dominion, therefore, in all its branches was as completely established as the aristocratical, during the half century immediately succeeding Charlemagne's decease.

The General or National Assemblies continued to be held during the reigns of Louis le Débonnaire and Charles the Bald. There are records preserved of five-and-twenty during the former and seven-and-twenty during the latter reign. But they were no longer as in Charlemagne's time merely councils to assist the king, or meetings to support him in executing his designs. They were the scenes of contest between the barons and the clergy, or of disputes among the members of those orders themselves, or of attacks upon the king, whom the party that happened to prevail in the conflict reduced to submission, sometimes compelling him to grant privileges, sometimes depriving him of his crown, sometimes restoring it, as the fortune of the struggle happened to decide. The National or General Assemblies and the Councils of those times are for the most part not to be distinguished; for in the greater number of instances the Council was held at the times and places where the Assembly met. After the time of Charles the Bald, the holding of these assemblies appears to have been no longer regular at the stated seasons of March or May, and October; they were held more rarely, and only when some violent proceedings made the barons desire to meet, or when some one among them wished to obtain the support of others in his projects of aggression. The authority of the

king was so mere a name that he had no longer the power to call them together. The councils of the clergy were held much more frequently, and even in these the barons occasionally interfered. For above a century the greatest anarchy prevailed, and the only power in the country was that of the barons, each in his own territory. Six or seven of these had far more extensive dominions than the rest; and at length one of their number, Hugh Capet, Count of Paris and Duke of France, whose government or dominion extended over the country between the Loire and the Seine on the south, and between the Seine and the Meuse on the north-east—who possessed, besides, several rich abbacies—whose family had been so powerful that his father twice disposed of the crown, and only declined taking it as considering the royal authority a shadow—caused himself to be proclaimed king, by his military vassals and an assembly of several of the other barons, in 987. But a number of the barons declared for Charles of Lorraine, the next heir to the Crown, and for some years there prevailed a struggle between the two parties, in which it is remarkable that history records only the defeats of Hugh Capet, never any success of his gaining; and indeed the south of France appears generally to have acknowledged as king first Charles and then the Duke of Aquitaine, after Hugh had by treachery obtained possession of Charles's person and thrown him into prison. Yet as Hugh Capet obtained the support of the clergy, and as his power, reinforced with that of his brother the Duke of Burgundy, his brother-in-law the Duke of Normandy and his other relations, exceeded that of any competitor, he was suffered to retain the title of King of France and transmit it to his descendants. But for two centuries the title alone, without any real power as king, was what the family possessed; for each of the great lords in his own county exercised all the prerogatives of the Crown, and many of the counties being subdivided, a partition took place of their prerogatives, some portion being possessed by the inferior lords, the viscounts or viguiers, and the larger portion by their over-lords, the suzerains, who under the names of dukes, counts, marquises, or barons, were the real sovereigns of the country. During that period, therefore, there was no marked change in the royal authority; it became somewhat greater, but increased very gradually, and it was not materially higher than it had been during the latter period of the Second or Carlovingian

race. The power of the aristocracy had become completely consolidated before the usurpation of Hugh, and instead of considering that event as the commencement of a new constitution, or dating from it the feudal government (which some have done, misled by the suspension of the baronial power during the reigns of Pepin and Charlemagne), we ought to regard the progress of the feudal system and of the baronial power as uninterrupted from the death of Charlemagne, in like manner as it had been uninterrupted from the first invasion of France to the time of his father.*

But it was not merely the power of the barons as against the crown that had become fixed in its full extent long before the end of the Second race; the feudal system in all other respects had become completely established. By degrees its customs had grown everywhere into the common law of each district; and as they were thus adopted, they partly supplanted the laws of the Four Codes of which we formerly explained the origin (Chap. xi.), and partly were blended with and modified those laws. We observed one peculiarity in the Visigoth and Burgundian codes, which, among many others, distinguished them from the Salic and

* Nothing can more clearly prove the insignificance to which the Crown was reduced at the beginning of the Third race, than the ignorance in which we are left by all contemporary historians of everything relating to Hugh Capet; and this notwithstanding that his father (called Hugh the Great from his large possessions and number of vassals, and not from any exploits he ever performed) had before given the crown first to Rodolphe in 923, and afterwards in 936 to Louis IV. (called d'Outremer, from his exile in England), and notwithstanding also that his grandfather Robert I. was for a year or more himself king. It is undeniable that while we are left in the dark as to almost all his proceedings, we are not even able to tell of what family he was descended. It was the prevailing popular belief that his extraction was low. At the end of the thirteenth century, Iperius, a monkish historian, endeavoured to refute this, which he admits to be a tradition current among the vulgar. Dante is well known to have adopted it notwithstanding the good father's arguments; he calls Hugh the son of a Paris butcher; and Rodolph of Clugny, who lived in Hugh Capet's time, expressly says that he forbears to trace his descent because the subject was obscure. It is manifest from hence as well as from the little interest which his usurpation occasioned, and also from the fact of the Dukes of Normandy, whose already great power had been exceedingly increased by the conquest of England, never having made any attempt to take the French Crown, that its prerogatives were considered of little or no value to any one, and that the great barons, the hereditary sovereigns of the provinces, or rather unions of provinces, regarded their own authority as equally independent with that of their nominal prince. The Dukes of Normandy, indeed, held a very different kind of power in England, where they never suffered the feudal aristocracy to gain the ascendant, and where they were enabled to gratify their followers from the first with the whole or nearly the whole property of the country by the exterminating and confiscating policy of the conquerors.

Ripuary; they gave the Barbarians no privileges over the Romans. Hence in the countries where the two former codes prevailed persons of Roman descent preferred living under the Civil law by which they lost no advantage; and choosing this (as they had a right to do, from the personal nature of all the codes, Chap. xi.), they preserved in those countries the authority of the Civil law, which gradually wore out where the Salic and Ripuary codes were established, because these giving the preference to Barbarians over Romans, furnished an inducement to make choice of them rather than the civil code. It was always in the south chiefly that the Visigoth and Burgundian laws prevailed, the Salic and Ripuary being chiefly adopted to the north of the Loire. But an edict made in the assembly of Pists, 864, distinguished in this way the countries in which the several laws should be used, not at once meaning to render the law territorial and deprive all of their right to choose their law, but assuming that, where no such choice had been made, the Visigoth and Burgundian law was the rule in the southern, the Salic and Ripuary in the northern districts.* The great number of important towns in the south, all founded by the Romans, and the constant intercourse between these provinces and Italy, had a similar tendency with the provisions of the codes to continue the influence of the Civil law there, while in the north it gradually fell into disuse. Now when the feudal customs everywhere gradually supplanted or modified the laws of the Barbaric codes, they had much less effect in the countries where those codes had been already supplanted or modified by the Civil law. In these countries the Civil law became the common or prevailing rule, and they were called the *pays de droit écrit*, because the Civil law had been formed into a code long before the customs had even been reduced into writing; but the customs had force also in those countries, both in particular places where they prevailed locally and on particular matters respecting which the customs were allowed to supplant or to modify the provisions of the Civil law. The other countries where the Salic and Ripuary law had prevailed were called *pays de coutumes*, and were governed by a great variety of customs, some

* The Edict expresses that its provisions are confined to the provinces which follow the Barbaric laws, and states that, as to the provinces under the Roman law, neither the King (Charles the Bald) nor his predecessors had ever made any capitulary contrary to that law.

general and some local. These customs were derived partly from the four codes, especially the Salic and Ripuary, and through those codes adopted some portion also of the Civil law—partly and in greatest part from the feudal usages, some of which were general, and regulated the rights of property and relations of persons everywhere, others of which and the greater number were, as we have already explained (Chap. viii. and ix.), local, and differed in each district.

Nothing can be conceived more unsettled and uncertain than the law of those countries from the time that the Codes began to be supplanted and modified by the Customs until the new and unwritten law compounded of both was reduced to writing. We may form to ourselves some faint idea of it by supposing that all our modern statutes were abrogated, and only the more ancient ones remained, each interpreted and applied variously in different parts of the country, and many of the provisions changed or wholly repealed; and that there existed neither of those constructions nor of those alterations, nor of the common law which never had been written at all, any published account in any shape, any more than of the numberless local laws, the customs of particular manors. Such was the state of the French provinces north of the Loire, and to the north-east, during a period which we have no means of fixing with any precision, but which may be taken to have extended from the early part of the tenth century to the very end of the eleventh, when the customs of the realm or general feudal laws were formed into a compilation called the *Assises de Jerusalem*, made under the direction of Godfrey of Bouillon when the Crusaders had taken the Holy City and established in the surrounding territory the system then settled in Europe. The conquest was in 1099, and this collection bears that date, though it was probably made a year or two later. It was received as an authentic digest of the existing law, in Germany, France, and other feudal countries. About half a century afterwards the more systematic collection called *Libri Feudorum* was begun by some Milanese lawyers, and finished in the course of a few years. But the local customs continued unwritten till late in the thirteenth century, when Louis IX. (St. Louis) caused those of Paris, Anjou, and Orleans to be compiled, that is the customs governing those three provinces; and from time to time other provincial, or as they are called, General Customs, were in like manner collected and

made public in different provinces, as Brittany, Normandy, Champagne, by the authority of the government and of the dukes and counts, though more frequently by private individuals. Not above eleven or twelve however were thus ascertained, until the middle of the fifteenth century, although several attempts had been made earlier, as one in 1302 by Philip IV. (the Fair) to have an authentic record of the whole made, rejecting such provisions as were unfit to be retained and fixing by authority what in each district was the established customary law. This important work was undertaken by Charles VII. in 1453 after the expulsion of the English; but so little progress was made in it, that the first custom published, that of Ponthieu, bears the date of 1495, under Charles VIII.; nor was the whole collection finished before the beginning of the seventeenth century (1609). It is impossible to bestow too much praise on the manner in which this great work was performed. The States of each province distributed the task among the judicial functionaries, whose reports were referred to a committee of Notables, and these arranged the whole in a code, which was dicussed by the assembly of the States, and a careful examination was instituted into the fact of such and such articles being the ancient customary law. The result was the report of a *coutumier* or *customary* for the province, which the parliament upon approving registered. The execution was not, of course, equal to the plan; for it partook of the great variety of the persons engaged in it, and generally the royal commissioner who presided over the meeting of the States was obliged to rely upon the local officers for performing the work of final revision and composition.

Of these General Customs there were no fewer than sixty; and about three hundred of customs peculiar to single districts, as lordships, towns, or villages. The province of Auvergne was in this respect in the worst state of any; for it had about a hundred customs; there was hardly a spot, even the smallest village, that had not its particular law; and the places where the written and unwritten customary law prevailed lay intersecting each other, so as to produce inextricable confusion. Whenever a question arose as to what the general custom was, a reference to the customary decided it; but if the case was to be governed by a particular custom not recorded in the customary, recourse must be had to the method used before the general customs were published, and probably used as to all

the laws in the tenth and eleventh centuries, after the four codes had fallen into disuse and the feudal law was published. This was by what they called *enquête de turbes*, literally *an inquest of the crowd*—an assembly of the inhabitants of the neighbourhood, who reported what the custom was understood among them to be. This course continued to be taken whenever the question arose respecting any alleged usage not written, until the year 1667, when it was abolished, and in its place was established the *acte de notorieté*, or report of judicial officers upon a judicial requisition.—The project of reducing the whole of this mass into one uniform and general law was first entertained by Louis XI. in the latter part of the fifteenth century, suggested no doubt by the ordinance of Charles VII., the execution of which was then preparing, for the compilation of the different general customs. But this wise and truly important design remained unexecuted until the time of Napoleon, of whose life and reign its successful accomplishment will ever continue to be the distinguishing glory.*. We may derive some notion of the diversity of law which prevailed in the country under the old system from the statement of Beaumanoir, an eminent lawyer of the thirteenth century, who in his compilation of the Beauvais customs, asserts that there are no two lordships in France which have in all respects the same law. Nay even in the country subject to the Crown, and to which the royal ordinances extended, each baron could administer justice either according to those ordinances or according to the custom of the district, as he pleased.

Thus the laws under which the country lived till towards the end of the first or Merovingian race were chiefly those of the

* The different customaries were naturally the subject of many commentaries; and questions of law arose continually in each district on the construction of the customary of that district. There were also many publications by individuals of the local or particular customs, the *usages*, as they were called—in contradistinction to the *coutumes* or general customs. There had been similar compilations of the latter while they remained unpublished by authority, and some of these works had a very high authority, as the Coutumes de Beauvais by Beaumanoir. Beside the *Grand Coutumier* of Charles VII. there were published apparently by authority the *coutumes notoires du châtelet*, chiefly from the *enquêtes par turbes*, in the fourteenth century. The two most convenient works to consult respecting the French ıstomary law are that of Guenois, in which the comparison of the various customs is made under each head of jurisprudence; and the *Bibliothèque de coutumes* of Berroyer, which gives the arrangement of the customs under heads and chronologically. The Coutumier of Normandy is supposed to have been the first written in French (some, however, have held that the French is a translation); before that all were in Latin.

Four Codes and the Civil law. The Feudal Customs gradually encroached upon or blended themselves with these laws during the latter part of the first, and the whole of the second or Carlovingian race, and the authority of the civil law was mainly confined to the south-western provinces. Those customs received many modifications by the ordinances made under the third race; yet they continued to be the law, or rather the mass of different kinds of law, in every part of the country, even in parts of the provinces where the civil law was generally received, until the beginning of the present century, when a careful selection having been made of their better portions, and of the provisions which were common to the greater number of the customary codes, and a considerable bulk of absurd and oppressive enactments having been repealed, one uniform system was established and remains in force, partaking in some degree of the character impressed upon the various sources from which its materials have been drawn—the Barbaric codes, the Civil law, the Feudal customs, the modern improvements introduced by Ordinances and Edicts*—but still more strongly marked by the great legislative changes introduced since the revolution of 1789.—In order to keep this important subject entire and distinct, we have taken it apart from the rest of our historical view of the monarchy, to which we now return; and the authority by which the legislative provisions were made that have just been the subjects of our consideration, requires next to be explained.

The whole country had become, at the beginning of the Third race, divided into a number of principalities, each under a monarchical government, and each subdivided into lesser districts which had rulers of the same kind. Each of these principalities was nominally held under the Crown; consequently all were called fiefs, and all were supposed to stand in the same relation to the Crown; but the more important and powerful had great sway over the others, and were each almost as powerful as the Crown itself. They were six in number at the beginning of the eleventh century; the Duchies of Burgundy, Normandy, and Guienne; the Counties of Champagne, Flanders, and Toulouse. The Crown possessed the seventh fief, which had been that of the

* When the Ordinances and Edicts are given by writers as one source of the French jurisprudence, they are too apt to forget that these in many instances only digested or promulgated some part of the Barbaric or Customary or Civil law.

Capets before their usurpation, and consisted of the County of Paris and Duchy of France. These fiefs had been constituted at different periods; Toulouse in 802, Guienne in 844, and so forth. In each of them, but also in the lesser fiefs, as Anjou, Maine, Artois, the baron or feudatory of the Crown being the petty sovereign, whether called baron, duke, marquis, or count (we shall call them prince for the present), held assemblies for the whole, at which justice was administered and laws occasionally were made. But those assemblies, like the meetings called by Pepin and Charlemagne, were intended rather to assist the prince as his council, and to muster his military strength, than to authorise his acts and his edicts. Nevertheless as he had no real power beyond his own territory, and could not bring the force of one district to bear upon another, he was obliged to consult in a great measure the wishes of men each of whom had followers attached to him and dependent on him. It is probable that his chief influence, beyond the direct power which he possessed from his own immediate vassals (those of his domain), arose from the necessity of all uniting for defence against neighbouring princes; for though the uncertain nature of military service under this system made great operations of an army quite impossible, the universal prevalence of warlike habits and of military connexion between Lord and Vassal made aggression of one upon another almost perpetual. The power of the princes and barons probably continued much as it had been, long after that of the king had almost entirely ceased, and their courts, malla, or parliaments were held as before, while the general assemblies called by the Crown were scarcely ever summoned. In those provincial assemblies, the making new laws formed a very small portion of the business, which was generally administrative and judicial; yet ordinances were from time to time made. Upon extraordinary occasions a greater body of persons was assembled, either in order to raise men or to obtain money upon some emergency; and when towns became of importance their inhabitants were called to attend for the purpose of obtaining a supply from them. Often the towns were merely the places where the labourers or handicraftsmen belonging to the barony and not living on the land as serfs, had their dwellings. All merchandise was carried on by travelling dealers who went about from one castle to another, and from one province to another, with their wares. As population and wealth increased

shops were established by stationary dealers, and the towns rose into importance. We find their inhabitants summoned to a provincial Parliament, that of Beaucaire in Languedoc, as early as the middle of the thirteenth century (1254), fifty years before what is usually reckoned the first assembly of the States General for the whole kingdom. In these earlier instances representation appears to have been unknown; all who came, whether vassals or others, attended in their own right, unless that the lesser *vavassor*, or mesne lord, attending the great baron or prince's court might be said, when he came without his vassals, to represent in some sort his own lordship. It is usually said that the Parliaments were the remains of the ancient national assemblies under the first and second races, and that the States were wholly of a different nature, and never thought of till the beginning of the fourteenth century (1302) when assembled by Philip the Fair. But this appears incorrect. Both the Parliaments and the States had their origin in the ancient assemblies, only that the Parliaments were more regularly held and despatched judicial business—the States were assembled on extraordinary emergencies, had no judicial functions, and were chiefly called upon for supplies, although occasionally also to aid with their advice and authority upon other matters. Indeed the assembly at Beaucaire was for the purpose of making commercial regulations; and the States called by Philip the Fair in 1302, the first assembly of the States General, or assembly for the whole kingdom attended by the Commons, were summoned on account of his quarrel with Pope Boniface VIII. and to answer that Pontiff's claims to supremacy, although they were also asked to support him in the conflict which arose out of that quarrel. It is necessary that we should trace the history and show the constitution of the Parliaments and of the States, because the former had some small share in the legislation, although their functions were chiefly judicial, and the latter, though not a legislative body and one only of occasional existence, had some influence in restraining the power of the Crown. Both these bodies under various names may be said always to have existed; for their functions were performed by the general assemblies, which at one period were regular, at another occasional; and the composition and functions of both the parliaments and the states varied as much at different periods as they differed at any period from the composition and

the functions of the older assemblies. We shall begin with the Parliaments.

The name of Parliament first occurs in the time of Louis VI. (the Fat) at the beginning of the twelfth century. That of Paris is generally considered as the most ancient; but there is no reason to think that the other principalities were without some institution of the same kind at the earliest period to which the parliament of Paris can be traced, although this body earlier than any other acquired a regular form and became fixed in its place of sitting. As the power of the Crown, too, extended itself from its own domain into the territory of the other princes, the constitution of these assemblies came to be moulded upon that of the parliament of Paris, which was also originally called the parliament of France—the former name referring to the county, the latter to the duchy, which formed the Capet fiefs before the accession of Hugh. This body then was to these fiefs what the assembly of each of the other feudatories was to the fief of that feudatory; and it will be more convenient to take its history than that of those others, the progress having been alike in all.

Originally it followed the king's person and was not fixed at Paris till the reign of Philip the Fair, 1302; since that time it was only occasionally removed on account of sickness, or disturbance, or foreign invasion; and some writers hold that it was fixed before the fourteenth century, as of sixty-nine parliaments held between 1254 and 1302 it can only be ascertained that two were not at Paris, and thirty at least are known to have been held there. At first the regular meetings were at Whitsuntide and Martinmas; but there were generally two extraordinary meetings besides. Afterwards the two meetings were blended into one, and lasted, when the business became heavy, from Martinmas to Lammas. At first its members were the prelates and great barons; to these some knights were added and masters (*maîtres des requêtes*), who are supposed to have been originally the Missi Dominici, and whose functions were afterwards confined to the parliament and council of the king, when Intendants were appointed and made stationary in the provinces to regulate their financial concerns. All peers had place in the parliament. Of these there were the six great feudatories or princes, being the vassals who held of the Crown and were the king's peers, as the

barons who held of the prince in each of the fiefs were his peers. Six prelates who had fiefs holding of the Crown were also peers; so that there were six lay and six clerical peers at the end of the twelfth century.* As the great fiefs became united with the Crown, there ceased to be those ancient lay peers; but new peerages were created, at first in favour of princes of the blood, afterwards of subjects also, it being a question whether the barony of Montmorenci, 1551, or the Duchy of Nemours, 1462, was the first of these. To the six ecclesiastical peers was added in 1622 the archbishop of Paris as Duke of St. Cloud. Beside princes of the blood, there were about forty lay peerages (duchés pairies), and as they were by their creation descendible in some cases to females, peeresses have claimed and exercised their rights even of sitting and voting in parliament, beside officiating at coronations. There are at least two instances of their voting—one of these on the trial of a peer, one in 1314. But this right had ceased for many ages before the Revolution.

When the judicial business of the Parliament increased it was found necessary to admit lawyers, who at first only acted as assessors; but they soon obtained a deliberative voice. The baillis also had originally a place in the parliament. These were barons to whom judicial powers were given after the Missi ceased to go their circuits. At first four bailliages were created—St. Quentin (then called Vermand), Sens, Mâcon, and St. Pierre le Moustier; afterwards Philip Augustus in 1190 established them in all the larger towns of the royal domain. They administered justice only as pronouncing in each case what the older inhabitants *(prud-hommes)* declared to be the custom of the district; as the baron in his court decided on the local custom by the voice of the peers or vassals composing that court. But when business became multiplied and the law was reduced by the *établissemens* of St. Louis and other codes to a more intricate system, as we have seen, the baillis were wont to delegate their judicial functions to lawyers; and it was made obligatory upon them by the ordinance of Philip the Fair in 1287 to choose lawyers who should not be ecclesiastics, in order, says the preamble, that they may be amenable to parliament in case of misconduct. Soon after 1291 the baillis were

* That number attended at the coronation of Philip Augustus in 1179, in the reign of his father Louis VII.

excluded from a voice in parliament, and in 1319 Philip V. (le Long) also excluded from the parliament all prelates except such as belonged to his council; he further decided that it should have beside the peers — eight clerical and eight lay judges, and twenty-four reporters whose duty it was to examine and present the facts of each case to the judges. In 1344 presidents were appointed. These varied in number from three to nine, by additions successively made, and sometimes rescinded, down to 1643. Ultimately there was one first president and nine presidents *à mortier* (the puisne presidents, so called from the mortar-shaped cap which they wore), and each president could preside over the different chambers into which the parliament was divided for the transaction of various business; an arrangement of which the foundations were laid as early as the time of Philip the Fair (1289). This prince having been educated by lawyers carried into execution many of their plans for regulating the business of the parliament; as fixing the times of sitting, defining the functions of the royal officers, and above all dividing the judicial business among different classes of the members. Beside the ten presidents, the seven ecclesiastical peers, and the lay peers (for all prelates and barons not being peers had long ceased to attend), there were also a number of councillors or inferior judges.

It is now to be considered how these places were filled; and we can hardly separate this from the more general inquiry, how all officers were appointed under the Monarchy. The tendency of the feudal system, as we have seen, was to convert every office into a property, annexing all functions, perquisites and powers to the possession of land. But as the rigour of the feudal customs was relaxed, and the Crown became more independent of the Barons, the Sovereign acquired the power of removing and appointing in many instances. A struggle however was still maintained, and the feudal principle appears in the main to have prevailed. St. Louis prohibited the sale of all offices connected with the administration of justice—a proof that they had become property, if not hereditary. Louis X. (le Hutin*) and Philip V. (le Long) allowed their sale, which then meant the farming out of their emoluments for a term. In 1356 and 1360

* The Quarrelsome.

Charles V. prohibited this sale or farming, and required such offices to be held by persons not belonging to the district.* The rule was laid down by Charles VII., and afterwards by Louis XI. and Charles VIII. that upon any vacancy in a judicial office, the tribunal itself should choose two or three fit persons to fill it, and from these the Crown should select one; and this was expressly stated to be for the purpose "of preventing a sale of judicial places and consequently a sale of justice." So wholesome a rule however was fated to fall into disuse almost immediately, although it was afterwards acted upon in the time of Louis XII. and Henry III. In 1467 Louis XI. declared by an ordinance that all offices should be held for life or until resigned or forfeited by some sentence of a Court, and it should seem that soon after all judicial places and many others were regarded as property. In 1493 Charles VIII. directed that all appointments to offices in the finance department should have a clause specifying the tenure to be "during pleasure;" but this, like his other regulation to prevent sale of places, became a mere form. Upon his death Louis XII., in order to liquidate the heavy debt which his wars had left, sold the places in the finance department as they fell vacant; and in 1522 Francis I. formally established a department for the sale by the Crown of all offices at a fixed rate. This department was called *Bureau des parties casuelles.* To prevent their sale by the holders who had paid a price to the Government and whose right for their own lives had been recognised by the previous ordinances, now became impossible; for the purchaser gave the price to the holder for his resignation, and then paid the regulated sum to the *Bureau* for his own appointment. It is probable that this traffic went on generally; but in 1568 it was legalised by an ordinance of Charles IX. which permitted the sale by the holder or his heirs upon the payment of the fixed sum to the *Bureau.* An attempt was made in Henry III.'s reign (by the Ordinance of Blois) to except judicial places from the permission; their sale was prohibited; and an oath was required to be taken upon each appointment that the party had not purchased his predecessor's resignation. But Henry IV. abolished this oath in 1595, it having been found that everybody took it except a few virtuous men,

* The principle of this rule was so far adopted in England that until 1809 no judge could go the circuit in the county where he was born and lived.

and that it had in this respect the bad operation of a test. The Ordinance of Blois however prescribed the age and certain qualifications required to enable persons to hold judicial places. A president must be forty years old, a bailli's lieutenant thirty, and others twenty-five; certain standing at the bar was also required and a certificate of qualification. These requisites continued in force, subject to alterations in the detail by succeeding kings, one of whom however, Louis XIV., introduced the power of dispensing with the requisites in particular cases. In 1667 it was declared to be the existing law that all the judicial officers should reside within the jurisdiction to which they belonged; but in the case of the smaller offices in baronies this was practically impossible, as one person, from the low emoluments received, was obliged to hold situations in different baronies. Another ordinance, that of 1669, prohibited relations by blood from sitting in the same Court, and provided that the votes of those related by marriage should count only as one unless they differed; all this subject to the dispensing power of the Crown. Moreover, persons holding judicial offices were prohibited from trading and from farming any of the revenues.

Subject to these restrictions all judicial offices were saleable, except those of the first Presidents of the Parliaments and the *Procureurs du Roi*. They were also together with the revenue (Finance) places formally declared to be hereditary, although not granted inheritably; that is, they were all to be saleable at the decease of the holder, or tenable by his heir, or devisable by his will: this was by the ordinance of Paulet (its author) in 1604; and in consideration of the permanent title thus given to offices a yearly payment to the revenue (called after him the *Paulette*)* was to be made of one-sixtieth of the emoluments of all places which had not been granted to the holder and his heirs. A right of re-entry (*regrès*) was allowed to the person selling any office on repayment of the price and costs at any time before his successor, the purchaser, had actually been admitted. The household and military places, though almost all saleable, were not hereditary; but those of the highest order could of course from their nature only be held during pleasure,

* The *paulette* also relieved the office from falling to the Crown on the holder not living 40 days after he had sold it; which it would have done but for this ordinance and the yearly payments under it.

and so were not properly saleable by the holder. They paid however, like the rest to the *Parties casuelles* upon each admittance. A saleable office, whether judicial or other, if also hereditary or in fee, was in every respect dealt with as property. It could be entailed, mortgaged, adjudged * by creditors; it was also subject to dower and the rights of children; and if sold, the price was subject to the claim of the widow and children for compensation. Beside the particular qualification required for the holders of judicial places, all who succeeded, whether by inheritance, devise, or purchase, to any place, were to undergo an examination touching their lives and characters; and among the qualities required after the revocation of the edict of Nantes, 1685, was comprehended their being of the Roman Catholic religion.—What has been said of offices applies to those of the Provincial Parliaments as well as the Parliament of Paris, with this difference —that in the greater number of the Provincial Parliaments the places were not all made hereditary till a later period, chiefly by Louis XIV. in the year 1673.†

It is impossible to conceive any system more unsound in its foundation or more liable to abuse than this of public employments held in fee and transferable by sale. The correctives afforded by the manners of the people, and by the system itself having been gradually formed, could alone prevent the most grievous corruption from being its universal produce. Nevertheless it afforded a very considerable check to the power of the Crown. It indeed came from those feudal habits which in earlier ages had reduced the royal authority to a shadow; and when in the progress of time the King succeeded in overthrowing the aristocracy, this relic of their ancient influence set bounds to his power, now become nearly absolute. It is singular, however, to observe how Montesquieu had been so habituated to see all offices saleable that he regarded the *vénalité des charges* as one of the characteristics of monarchy and as distinguishing it from despotism; nor does he, in enumerating the advantages of it, make mention of a single drawback.‡ It may with confidence

* In French as in Scotch law this means taken and sold by legal proceedings.

† The greffiers, their clerks and other officers in the Parliament of Paris itself were also made or recognised as hereditary by Louis XIV. at the same time.

‡ Esprit des Lois, liv. v. chap. 19. He received his own office of president at Bordeaux by bequest from his uncle, on the death of an only son. He afterwards sold it, and retired into private life.

be asserted that except as a choice of evils such a system never can be safely adopted in any country until men have become so universally virtuous as to make government unnecessary, or the whole institutions of the State have grown to such perfection as would make the capacity of those who administer them immaterial beyond a certain low standard at once easy to ascertain and to reach.*

We are now to consider the privileges and the functions of the Parliament.—Its members, if *roturiers* and not noble, acquired the right of nobility and transmitted it to their descendants in the first degree. This was first formally settled in their favour in 1546, and it was confirmed by subsequent edicts, as those of 1640 and 1644. Before 1546 they were made *Chevaliers ès Loix*, an order of legal knighthood devised for the purpose of giving them the rank of knights, it being in those days understood that no person under that rank could belong to the Parliament, and the assistance of lawyers having become necessary who seldom had the rank required. The members were also exempt from service in the general levy or array (the *arrière ban*), from billet of soldiers, and from liability to the Lords' rights in baronies. They moreover enjoyed the important privilege of having themselves or their causes only tried in the Parliament.

The records of the Parliament of Paris go back to the year 1252, the date of the first entry in the four most ancient ones, called *Olims* from the first word in one of them and extending from 1252 to 1319. These and the subsequent registers† contain the records of the judgments in all matters tried before the

* It is a doctrine of Mr. Bentham's, to which the remark in the text applies, that in every state, after fixing the qualification for each functionary, all places should be sold by the public to the highest bidders. Nor can the position in the text be evaded, unless the qualification be so fixed as to make the whole plan a nullity.

† There were above 8000 volumes of these registers, beginning with the *Olims*. The ordinances were, after 1337, recorded in a register of their own; before that time they were entered with the judgments, letters patent of grants, and all other matters. In 1669 Lenain, a great lawyer of those days, made a catalogue of the contents of the registers in 84 folio volumes, and one volume of index to the catalogue. A few copies of this and other private collections of a like kind were possessed by some judges and referred to as of great authority, and were of much use in consulting the records. But how little the judicial legislation of the country could be said to be publicly known in such circumstances is manifest; its records were in truth not accessible to the public.

Parliament, and also the ordinances and edicts of the king which had not the force of law until verified and registered.* There can be no doubt that this right of Parliament to grant or refuse registration was the remains of the original jurisdiction which it enjoyed, as the general assembly had before possessed it, of previously discussing, and adopting or rejecting, the measures proposed by the king. Even after the royal authority had become so considerable that the Parliament was chiefly confined to its judicial functions, it was occasionally consulted by the Crown. In 1190 Philip Augustus referred to it the arrangement of the Regency, or guardianship of the realm, during his absence; and his appointment of his mother as Regent purports to be "with the leave of all the Barons." The ordinance of the same prince in 1209 respecting the law of fiefs was made "with the assent" of several of the dukes, counts, and other barons, as well as of some prelates. The ordinance of Louis VIII. upon the Jews purports to be made with the assent of the barons. St. Louis's *établissemens* were adopted and promulgated, probably framed, with their assent, in 1246. In 1275 it was referred to the Parliament to decide between Philip the Bold and Charles of Sicily upon the succession to the great fief of Poitiers. Philip the Fair's ordinances are sometimes said to be made by the "Court of the King," sometimes "by the King's order," but in Parliament; and the approval of the Parliament is expressed to those of 1302 against private war and upon other general subjects. In 1306 on the death of John I. the posthumous infant of Louis X., and in 1328 on the death of Charles the Fair without issue, the Parliament was consulted on the succession to the Crown. John II. and his son Charles V. frequently consulted it in the various exigencies of their affairs during the wars with our Edward III. and the Black Prince. Charles V. during his regency, while his father was a prisoner, declared that no ordinance or grant should ever be made by the crown without the previous deliberation of the council; which seems to indicate that till then the prior assent of the Parliament had been required, and that for this the assent of the council was now substituted. But it is certain that, from the end of the preceding century, the practice had grown up by degrees of preparing

* The Capitularies end in 921; the Ordinances begin in 1051: but there were not many made before the time of St. Louis.

ordinances in the council and sending them to be registered by the Parliament, which was only previously consulted upon such extraordinary occurrences as those just referred to, of a difficulty about the succession, or an embarrassment arising from invasion. The statement of Charles IX. (or of some one in his name) to the Pope in 1561, that no edict or other act of the Crown had any force unless made upon the deliberation of the Parliament, was evidently made by those acting for him (he being only ten years old) to serve the purpose of the negotiation, and refers to a state of things which for at least two, probably nearer three, centuries, had not really existed. All that the Parliament claimed at the period in question was the right to refuse registration, which it must at that time have possessed. The form of registering at all times observed seems to prove this. It is an order or judgment purporting to be made on deliberation, not only to verify the ordinance or edict as proceeding from the king, but to declare it from its substance fit to be executed. The words are "la matière mise en déliberation;" the order is to register it "pour être exécutée;" and it is either declared to be registered simply or with modifications, in which case it is stated to be "vue, corrigée, et lue." An order in council, 1644, stating ordinances as "vues, corrigées, et lues en Parlement," recognises the right of modifying in terms.

A struggle however, as was sure to happen, arose between the Crown and the Parliament on this right. Several ordinances, beginning with one of Charles IX. in 1562, direct that if the Parliament finds any objection it shall without delay present its remonstrance in writing or make it by a deputation. The remonstrance frequently was successful, and caused the ordinance either to be withdrawn or altered; but generally the Crown was strong enough to prevail. In 1597 the Ordinance of Moulins required that all other business should be postponed when anything was sent by the king to be registered. At length as the royal authority became more firmly established, although the right of remonstrance before registration continued to the last, it was by the encroachments of Louis XIV. reduced to a mere form. First, by an ordinance in 1667, he allowed only eight days within which the remonstrance must be presented, and after the expiration of that period registration was to be presumed. Next, in 1673 he made another ordinance requiring

that execution should be given to all his edicts upon the first demand of the Procureur-general, but permitting a remonstrance within eight days as before. Remonstrances having thus become a mockery ceased altogether during the remainder of his tyrannical and pernicious reign; but they were restored by the provisions of the Regent Orleans in return for the Parliament taking part with him in 1715, setting aside Louis XIV.'s will in favour of his natural children, and making him unrestricted regent without a council. This harmony did not last very long; for two years after we find him making preparations to use military force in compelling a registration had it been refused as was intended. It should seem that the Parliament took advantage of the difficulties in which the Mississippi scheme involved the government, and even assumed the right of making some general regulations upon banking and other financial affairs, beside demanding the production of accounts from the regent; so that the schemer Law, in connexion with the Abbé Dubois, the regent's profligate minister, had a plan (according to the historian Duclos*) for gaining over the refractory body by a system of promotion. They proposed to take, by a kind of forced sale, the hereditary offices from their holders, paying their compensation in the paper currency of the day; to suppress all other sales of places; and to curb the Parliament by means of the great patronage which would thus be at the disposal of the Crown. During the reign of Louis XV. the right of remonstrance was exercised as it had been before his predecessor's restrictions; and though the refusal to register was from time to time peremptorily given, it yielded on all important occasions upon the king having recourse to the solemnity of what was called a bed of justice *(lit de justice)*. This consisted in his coming with greater state than usual, and with a greater attendance of persons belonging to his Court, to hold a meeting of the Parliament; it was then understood to be the law that his order to register when given in such circumstances could no longer be disobeyed. The King could banish the whole Parliament, and this was a prerogative frequently exercised during the two last centuries. The members were sent to some town fifty or sixty miles from Paris, and kept there during several weeks, for

* Mem. i. 382.

showing a refractory spirit. This power the Crown had over them as over all other subjects. Sometimes they braved the exercise of it; but in the struggle, while the apprehension of coming to such extremities no doubt must in many cases have prevented edicts from being proposed, and in some few cases prevented them from being persisted in, on the whole and in the main the will of the king prevailed whenever the object was of sufficient value to justify him in running the risk of open resistance—a risk not at all considerable in ordinary times when the Crown had the disposal of a large revenue and a numerous standing army.

The principal difference between the Parliament of Paris and the Provincial Parliaments was this—that the right to remonstrate only belonged to the latter after registration. As they were bound to register immediately, and as the ordinance might contain some provisions of a hurtful or even dangerous kind introduced from ignorance of local circumstances, the judges could in such extreme cases suspend the execution, each in his own district, until an opportunity was given of rectifying the error. Of these provincial Parliaments there were eleven, at Bordeaux, Toulouse, Grenoble, &c. All were constituted like that of Paris; and in the earlier times, when the provinces were nearly independent of the Crown, they were consulted on the affairs of state, at first more regularly, afterwards in extraordinary emergencies, nearly as we have seen that of Paris was, both upon the affairs of its own district—the original and acquired domains of the Crown—and upon the affairs of the whole monarchy composed of that district and of the districts under the other eleven Parliaments. One instance of a successful remonstrance by a provincial Parliament is memorable alike for the celebrity of the individual to whose advocacy it was committed, and for the fruitlessness of a temporary victory which he gained over an adversary too powerful to be effectually withstood. Montesquieu in 1722, during the regency, represented the parliament of Bordeaux, in which he was one of the puisne presidents (*présidens à mortier*), in objecting to a tax which had been imposed and registered. The impost was repealed and another to the full as bad substituted in its room.

The restraint, such as it was, which the Parliament afforded to the power of the Crown, proceeded not so much from the noblesse, and not at all from the body at large; it rather came

from the portion of it connected with the administration of justice, from the magistrates, and in general from the legal profession, allied no doubt with the nobles by the tenure of all offices, but not confounded with them. It was to a certain degree a legal aristocracy, a *nomocracy;* the access to it was not confined to rank, but might be obtained by money and by industry. Its influence arose in some part from its connexion with the other aristocracy, but in far the greater part from the weight possessed by the magistrates and by the lawyers generally in the country, their connexion with the administration of justice, with the superintendence of police, and with the management of men's most important concerns. In these respects the resistance which absolute power had to encounter from the Parliament was more considerable than that offered by the States General. But in another particular the superiority was still greater.* The Parliament was a permanent body; it sat of necessity every year, and for by much the greater part of the year, on account of its judicial functions. The States were only assembled occasionally when the Crown desired their meeting. This never happened but when there were serious difficulties to overcome which required the assistance of the country; therefore terms could be imposed on the Crown as the condition of granting it; but whether a strenuous demand of those terms should be made or not—that is, a demand accompanied with a peremptory refusal of the Crown's application in case of non-compliance—depended upon the composition of the meeting, which varied exceedingly at different times, and being governed by no fixed and acknowledged rules could generally be moulded and managed by the government so as to attain their object at an easy rate. It was in by far the greater number of instances though not in every case from the want of money that the meeting of the States was summoned; and as the reason for calling on the towns to send deputies, or the provinces to send barons, or the clergy to attend in person, was that their assent to be taxed might be given, it followed that if the sovereign could obtain what he wanted from a part of the country he did not require the attendance of the rest, nor did those of course complain who were not summoned. Moreover the absolute refusal of the Crown to comply could only produce the loss of the aid required; and when the

* The Parliament of Paris annulled the proceedings of the States General, held in 1593 by the Duc de Mayenne, pronouncing their assembly illegal.

general body, the Estates of the whole realm, refused, the application could be made to those of particular provinces or of particular towns; which having the whole weight of the Royal influence directed undivided against them were more likely to yield. These circumstances, but especially there being no regular system adopted either for their election or the conduct of their business when assembled, materially diminished the effect of the States in restraining the power of the Crown, even when its necessities occasioned their meeting.

It is necessary to observe before proceeding further with our account of the States, that originally all revenue under the feudal system consisted chiefly of the lord's property, either of that which he directly enjoyed, or of that which his vassals enjoyed (but in respect of which they paid him certain perquisites, beside performing the services incident to their tenure), and of casual profits as those of his courts. We shall afterwards, in describing the kind of burthens which the French vassal had to bear, state the payments of the vassals particularly. For the present it is only necessary to remark that they formed the regular and ordinary revenue of the great feudatory or prince, of the inferior baron holding immediately from the Crown, of the mesne lord when there was subinfeudation, and of the sovereign himself. Whensoever an emergency occurred requiring any extraordinary services, or any aid in money beyond the regular perquisites, an assembly of the barony was called, and the aid was discussed. Some of the aids so required, though from their nature occasional and therefore requiring a meeting in order to ascertain their amount and to settle the shares—the reckonings as it were of individuals—were yet fully recognised and were not accounted extraordinary payments, as the knighthood of the son, marriage of the daughter, or even ransom of the lord. But other emergencies, as war or unforeseen losses, sometimes made the greater barons, the princes especially, call for extraordinary assistance—the name of which shows that it was voluntary; for it was often termed a *benevolence*, more generally an *aid*. When the feudal system was wearing out and personal service began to be commuted very generally for money, the tenants and the inhabitants who held no land by feudal tenure were called upon to pay in proportion to their means. This was originally an occasional payment, and was called the *taille*, from the notched

sticks or tallies by which the account of it was kept.* As the superior vassals never commuted for money, and the ecclesiastics always served by substitutes, none of these ever paid the taille, which fell wholly on the common people—the roturiers or class not noble—who were either those having no tenure of land at all or those having *fiefs roturiers;* that is fiefs by subinfeudation, four steps distant from the prince, or fiefs held by some base service, unconnected with military operations; for to all these was the taille by an abuse extended, although originally it was a commutation for service. It was however in all probability only a commutation for such extraordinary service as the escuage (see Chapter IX.) did not cover. The taille is often represented to have begun in St. Louis's reign, but erroneously; for Beauvais had a charter of exemption from it in 1060, and Philip Augustus's ordinance in 1190 (called his testament) refers to it. However it did not become perpetual and yearly till 1445. In some provinces, as Languedoc, Provence, Guienne, Dauphiné, it was real, that is, paid on all fiefs roturiers, though held by clergy or nobles. Elsewhere it was personal and not payable by those orders though holding fiefs roturiers; and in respect of fiefs nobles it was nowhere paid. In some places the clergy and nobles paid for houses where other feudal property was exempt. Officers in the king's service, baillis and others, had official exemption. The nobles and clergy being exempt from taille, if any emergency made the sovereign desire that it should be extended to them, or that some payment should be made by them in lieu of it, this could only be done by assembling the States and obtaining their consent. So if any other aid were required from those orders, or from the traders or other inhabitants of the towns, this could only be done by their assent in the States. It seems to have been always admitted that any new tax required this assent; and that the sovereign, who could with the consent of his vassals impose a tax in his own domain, could not extend it to the domains of the other great barons, even although they were his feudatories, without the consent of the vassals composing the courts of those barons.

The states were of two kinds, *general* and *particular;* the for-

* It was also called *tolte* and from its abuse *mal-tolte*. Exchequer accounts in England till a late period were kept by tallies; as were those of some tradesmen, as bakers, in France and in Scotland.

mer were those of the whole kingdom, the latter those of provinces, or districts of provinces, or single towns. There were for many ages two States General; one for the north of France, the *pays de coutume*,* or the *Langue d'oÿl*, as it was called, or the *Langue d'oui* (from the word for yes, *oui*); the other for the south, the *pays de droit écrit*, called the *Langue d'oc*, from the same word, which in the south was *oc*.† When the great fiefs of the south became united to the monarchy, the states of the Langue d'oc were sometimes held in Toulouse, sometimes at Paris, but at first they were, though meeting at Paris and at the same time with those of the Langue d'oyl, held separately. Afterwards, as the power of the Crown was extended and the union of the different parts of the monarchy became more intimate, the states of both divisions were held together as one assembly though composed always of three bodies, which occasionally met together, but more frequently apart. The provincial states met more regularly and had always some local matters to settle, as the distribution of the ordinary public burthens, especially the taille, among the different parts of their districts, and its collection. Some met yearly, others every two years, and some every three. In the provinces which had states (Brittany, Burgundy, Languedoc, Provence) there were both the states for the whole province and states for particular districts (*sénéchaussées*) and for each considerable town. Thus in Burgundy there were, beside the states of Burgundy, states also in the Charolois, the Mâconnais, Bresse, and Bugey, and so of the rest. These all met from time to time with some regularity. But the States General, or those for all France, were only called occasionally upon emergencies. The constitution however of all was nearly alike, and they must have had the same origin, being the remains of the Feudal Courts and the National Assemblies of early times.

The earliest assembly of the States General under that name was, as has been already observed, in 1302,‡ when Philip the

* It was not quite correct to call the Langue d'oyl the pays coutumier, and the Langue d'oc the pays de droit écrit, as Lyons and its district was pays de droit écrit, though in the Langue d'oyl.

† So Italy was called sometimes the *Langue de si* from *si* there being used for yes; and accordingly Dante in the famous passage of Count Ugolino apostrophises Pisa as "the disgrace of that fair country where *si* is heard."

‡ The charter of Chartres, granted by St. Louis in 1262, was countersigned by

Fair was engaged in his controversy with Pope Boniface VIII. Looking forward to a supply as likely to be eventually wanted, he summoned the towns to send *syndics* or *procureurs*, that is, attornies, agents, or deputies, who met the prelates and barons sitting in person, and the deputies of chapters; and in 1313 he again called a meeting of the same description. What then occurred shows how irregularly the affair was managed, how illusory the whole proceeding could be made, and how little more was done than what indeed alone was wanted, giving the Crown a pretext for using its direct power in levying money. The king's minister harangued the assembly on the necessities of the war, and then he came forward himself to ask what they would give. The prelates and barons appear to have been silent; but the Prevôt des Marchands of Paris, the head of the trade, who presided over the third estate or deputies of the towns, said that the Parisians would either give him a sufficient supply or follow him in the war; in which the deputies of other towns concurred. No resolution whatever was passed nor any other step taken; but immediately a proclamation came out for levying an *ad-valorem* duty on all merchandise sold. Louis X., his successor, was a prince of mean capacity and acted much less vigorously. Having ascertained that he had no chance of obtaining the assent of the States General to a supply, he made application to the States of Guienne and other provinces and had no better success. He then applied to the Parliament and equally failed. It was probably when in these difficulties at the commencement of his reign, that he granted in 1314 to the duchy of Normandy,* a charter by which it was declared exempt from all taxes not agreed to by the assembly of the Norman states: this was confirmed by Philip de Valois in 1338; when a declaration was made by the States General to the same effect as applicable to the whole monarchy,

twelve burgesses, whom he had desired Paris, Orleans, Provins, Lens, and Laon to send as deputies, that he might consult with them on the currency, the subject of the charter. Some have from hence regarded him as the author of the States General.

* This charter was confirmed at several times, the last in 1579; but almost all its articles were abrogated or altered by different ordinances, which only regarded the Norman charter enough to contain a clause "Non-obstant la Chartre de Normandie." The Chartre au Roi Philippe was a charter of Philip Augustus concerning lay and clerical patronage of livings. A.D. 1206.

the king being himself present. No prince assembled the States General so frequently as John II. in consequence of the misfortunes of his reign; but he obtained very little assistance in his difficulties, the power of the Crown being enfeebled in proportion as the help was required. In 1350 the States both of the Langue d'oyl and Langue d'oc were assembled, and the prelates granted the aid required, but the nobles and tiers état considered that they had no authority from their constituents, and the king applied to the provincial and town states, some of whom granted an *ad valorem* duty to one amount, some to another, upon the sale of goods. In 1355 there was a meeting of the States General in the Limousin country, and the different orders presented in writing their remonstrances and demands of redress, or of alterations either in the law or in the measures of the government. These were called their *cedules* or bills; afterwards (1366) they were called *cahiers*, quires or papers, a which they ever after retained; and from these cahiers arose some of the most important ordinances which were from time to time made by succeeding princes, particularly those made by Charles IX. of Orleans for the general reformation of abuses, those of Moulins and of Roussillon for judicial reform, and that of Henry III. made at Blois upon the same important subject. These have already been referred to in treating of their registration in Parliament. The year 1355 was that of the Black Prince's first campaigne in Guienne. The States were so far alarmed at the deplorable condition of the country, that they granted supplies to raise and pay troops; but they appointed persons to superintend the expenditure, and fixed a time for afterwards auditing the accounts of it: and they presented their grievances, some of which the king agreed to redress.

The next year John was taken prisoner at Poitiers, and the Dauphin, afterwards Charles V., in attempting to restore the fortunes of the country, called together the States in 1358. Their meeting was at Paris, and it was marked by a degree of violence on their part amounting to turbulence. Nor did they cease during the king's captivity to take advantage of the public calamities, treating the crown with the insolence of the great feudatories. They were afterwards, in consequence, less frequently assembled, and they were never again suffered to go beyond remonstrating against some specific grievance. Charles V.

assembled them only twice after he came to the throne;* Charles VIII. never after the year of his accession;† and Francis I. not at all during his reign. Other princes called them occasionally and with various success, till the year 1614, when the queen mother, regent during the minority of Louis XIII., assembled them for the last time before the revolution of 1789. The three orders were directed to meet separately and in different parts of Paris; but the Nobles and Third Estate (*tiers état*) asked and obtained leave to meet in the same place with the clergy—the convent of the Augustin or Austin Friars. The whole numbers attending were 454, of whom there were 140 cardinals and prelates, 132 nobles, and 182 deputies of towns, all these being officers of justice and finance. The three orders made separate *cahiers* of demands, as was the general and almost universal practice. The Nobles asked for the abolition of the Paulette, or annual duty on offices; the Clergy for the publication, that is the adoption, of the decrees of the Council of Trent; the Commons for the diminution of pensions; and all three agreed in asking for the establishment of a chamber or court of inquiry into financial malversation, and in calling for certain matrimonial alliances in the royal family. The zeal of the Commons was pointed, probably from the number of magistrates in their body, with great fervour against the abuses of the press. They required that no one should be suffered to sell any work without the printer's name, and the permission of licencers named by the prelates and baillis certifying to the doctrines contained in each publication, upon pain of whipping and fine for the first offence, the galleys and confiscation for the second; that no bookseller should be allowed to unpack a box of books without notice and a catalogue served upon a judge; and that no almanacs should be made without approval of the bishops. They further required the exemplary punishment of sorcerers. They were however, even more strenuous in their demand of measures for asserting the superiority of the Crown and throwing off all dependence upon papal authority; and this demand was only evaded and frustrated by the active intrigues of the Clergy

* They were called together in 1369 (one of those times), upon the war and negociations, and not for supply.

† The greatest spirit was shown at these States of Tours, 1483, and complaints of grievances were freely made; but although almost all their demands were granted in name, no ordinances were made in consequence, and thus nothing was effected.

with whom the Nobles took part. This assembly of the States General lasted upwards of four months, and gave rise to so many discussions of a delicate nature, that only the provincial states were ever summoned afterwards: and these met, as has been already observed, regularly and upon ordinary occasions. They were sometimes applied to for money and other assistance upon extraordinary emergencies; and the power of banishment was exercised when they proved refractory, as it was upon the Parliament of Paris when it refused to register edicts.

During the long interval however between the States of 1614 and the Revolution, the Parliament of Paris made repeated attempts to obtain a redress of grievances. It began to betray these dispositions and showed a spirit both of opposition to the Crown's measures and of inquiry into matters not propounded in edicts during Louis XIV.'s minority. The tyrannical proceedings by which he afterwards overpowered it have been already described as well as its revival under the Regency. From that period to the Revolution its remonstrances were acquiring a constant accession of importance, and it obtained whatever weight had ever belonged to the States General occasionally, beside its own permanent influence. Weak under strong princes (as one of its supporters described it to the historian Duclos),* but strong under weak ones, it showed an alternation of force and feebleness in so variable an administration as that of Louis XV.; and its opposition to his ministers had a powerful share in obliging his well-intentioned but irresolute successor to assemble the States General when the financial difficulties of the country had increased beyond the reach of ordinary remedies. The assembly of Notables,† which was first tried without success, had been consulted upon the manner in which the states should be composed and elected. The result was a constitution of that body materially different from any that it had ever before possessed. The elections took place in assemblies of the clergy, nobles, and commons, belonging to the different great bailliages (*assemblés baillagères*). Protestants as well as Catholics were allowed to vote, ordinary as well as dignified clergy to be elected, and the numbers of the

* Mem., i. 381.

† These were persons of consideration from different parts of the kingdom and all named by the king. They were 144 in number—prelates, nobles, marshals of France, magistrates, and other functionaries.

Commons (*tiers état*) to be somewhat more than equal to those of the other two estates together. The order of Clergy consisted of 291 deputies, only 83 of whom were prelates and abbés, the rest being rectors (*curés*).* The Nobles were 270 in number, of whom 28 were parliamentary functionaries. The Third Estate consisted of 578, and of these only 32 were clerical, noble, or magisterial, the rest being lawyers, deputies from the country, and deputies from the towns; 212 of the first, 102 of the second, and 232 of the third description. The Revolution which followed may more properly speaking be said to have consisted in the determination of these Three Estates to unite and form one body, than in any one other event subsequent to their meeting; and that determination was mainly owing to the Ordinary Clergy joining the Commons, with whom they had a fellow feeling in which neither the Dignified Clergy nor the great bulk of the Nobles could be expected to share.

The manner of composing and electing the States General was fixed by no certain rules; but the course often taken was this. The kingdom was divided into twelve great districts or governments, and each of these chose a number of deputies specified in the writ or *Lettre de Cachet*† issued to call the assembly. In three of these governments, Brittany, Dauphiné, and Provence, each of the orders met in one body and chose deputies for the whole of the order belonging to that province. In the other nine governments, the clergy, nobles, and commons of each subdivision and of each considerable town, met separately and chose their representatives. This was the course most commonly pursued; but there was no ascertained rule as to the elective proceedings, or the numbers of the deputies; and when the States assembled their course of proceeding was as little fixed and settled by rule as the mode of their composition. They met in one hall to hear the king declare the cause of their being called together; and in general they retired after the speech, each estate to its own chamber, where the deputies were divided into twelve bodies answering to the twelve governments from which they came. The votes of

* In Brittany the *curé* was called *recteur*. The *vicaire amovible* answered to our curate; the *curé primitif* to our sinecure rector, and he had a *vicaire perpetuel*, a perpetual curate.

† This means only a sealed letter; but the use of the expression to denote the royal orders for imprisoning obnoxious individuals will be explained afterwards.

the Chamber were taken by those twelve divisions; and it was only in the three—Brittany, Dauphiné and Provence—that the vote of the body was ascertained by the majority of its members. In the other nine governments the votes were first taken by towns and districts, the deputies from each having one vote, determined by their majority; and the vote of the division or government was determined by the majority of those subdivision votes. The vote of the whole Chamber or order was the majority of the votes of those governments thus taken. It is clear that nothing could be worse than this arrangement for arriving at the opinion of the whole representatives; because it was very possible that the vote of the order might be determined by an inconsiderable minority of those who composed it. The scope which the arrangement gave to corruption and intrigue in procuring apparent majorities is equally manifest.

CHAPTER XIII.

THE FRENCH MONARCHY—(*concluded.*)

Rise of the towns—Louis VI.'s Charters—Louis VII.—Extension of dominion—Real foundation of the Monarchy—Union of the Great Fiefs—Its operation upon the Constitution—Different circumstances of England and France—Jurisdiction of the Barons supplanted—Character of St. Louis—Evils of Enthusiasm—Baronial right of private war abolished; Of Taxing; Of Coinage; Exemption from Taxes—Power of the Crown to Tax—Its interference with the Coin—Its alliance with the Aristocracy—Standing Armies—Charles VII. and Louis XI.—Foreign Mercenaries—Louis XII.—Charles IX.—Persecutions—Louis XIII. and XIV.—Absolute Power—Its influence on the National Character—Lettres de Cachet—Nobility—Their Privileges, ancient and modern; Sold; Forced; Suspended; Forfeited—Division of Fiefs—Jurisdiction of Lords—Feudal Privileges and Exactions—Justice: haute; moyenne; basse—Epices—Vacations—Solicitation of Judges—Droits: honorifiques; utiles—Retrait: féodal; censuel; lignager; conventionel—Lods et Ventes—Quint; requint—Réméré—Droit de franc fief—Colombier—Corvées—Financial system—Généralités—Intendans—Pays d'élection and Pays d'états—Financial oppression—Privileged classes—General character of the Government—Note on Works upon the French Monarchy.

HAVING traced the institutions of the French monarchy, we are now to note the steps by which the Crown overthrew the feudal aristocracy and obtained its great power, possessing itself not only of the executive functions, but of the legislative also, subject only to the feeble and uncertain restraints which those institutions imposed. We shall then be better able to judge how futile are the pretences, rather than arguments, which have often been set up, sometimes by national, sometimes by party, prejudice, in denial of the arbitrary nature of the old French government.

The feeble reigns of Hugh Capet and his three immediate successors, Robert II., Henry I., and Philip I., made no change in the state of the monarchy during 120 years. They appear to have been, all four, princes of the most limited capacity, and the last even in that licentious age was distinguished for his profligate life. The power of the barons remained uncontrolled, and the king had little authority out of his own domain, that is, beyond what he possessed as one of the princes or more powerful barons. But in the latter part of the eleventh century a very important change began to take place. The

numbers of inhabitants in the towns increasing both naturally and in consequence of the gradual enfranchisement of the serfs, those places became important; and as men when congregated together can hardly avoid conferring upon their common interests, and among others upon the redress of their grievances, the foundations were laid of a resistance to the barons on whose domains they lived, and to the neighbouring barons who frequently encroached on the rights of towns that did not hold under them. When Louis VI. (the Fat),* after governing for some years under his father Philip, became king in 1108, he espoused the quarrel of the towns, and first of those in his own domain, protecting their inhabitants against the barons. These towns were Paris, Orleans, Melun, Etampes, and Compeigne, and they formed nearly the whole of his domain. It is commonly said that he gave them charters of incorporation (*de communauté*), and Robertson among others has fallen into this error, misled probably by the undoubted fact of his having given such charters to several other towns not in his own domain, but the inhabitants of which in their struggles with their lords, especially when these were prelates, appealed to him and gave him the pretence for interfering. It is generally supposed that the Charter of Laon, granted by him in 1114 on an occasion of this kind, is the most ancient in France. To his own towns it is certain that he granted none. Indeed Paris never had a charter at all, being held (like London) to be a corporation at common law; nor had any of his five domain towns any charter except Compeigne, and that was granted by his son. But although he gave them no such extensive privileges, he protected their trade from the neighbouring petty lords who were no better than freebooters, exempted them from the taille, and prescribed convenient Customs for the regulation of their affairs. The support which he received from these towns probably helped him in his constant struggles with the barons nearest to his domain, and particularly those surrounding Paris, who, petty as they were, kept him during his whole reign in a state of contest. At length however he subdued them, and this, together with the influence which he obtained in the towns of the other barons of his duchy, enabled him to extend his authority over those chiefs.

* Le Gros.

His valour and his kindness towards his people contrast him very advantageously with the despicable Capets who preceded him, although his character was stained with much of the cruelty in war from which in that age none were exempt; and if he spoke the words with which he is represented to have addressed his son upon his deathbed, he left to all princes a lesson which ought to be engraved in golden letters upon their palaces, if it cannot be imprinted on their hearts. "Remember that kingly power is a public trust of which a rigorous account will be exacted by the King of kings."* That Louis VII. (called the Younger†) profited much by the lesson can hardly be affirmed; for his ruinous crusade, in which he sacrificed nearly two hundred thousand lives, exceeded even the folly that had in the former expedition to the Holy Land seemed to be extreme. His cruelty too in war left a dreadful stain upon his fame; nor indeed can it be palliated by a consideration of his mild government in his own states, or by any other circumstance excepting the remorse which is believed to have visited him after the most atrocious act of his life, the burning of 1300 persons at the storming of Vitry. He pursued his father's policy in protecting and incorporating the towns; but his marriage with the heiress of Guienne effected a much more sudden increase of his power than the alliance of those municipal bodies; and accordingly we find him attempting not merely to quell the freebooter chiefs, or to overawe the greater barons of his own duchy, but to acquire an addition to its extent by invading first Languedoc, and then Champagne. The possession of Guienne, which he held during the fifteen years of his marriage, enabled him to undertake these operations; and although he ultimately failed in both, the force which he brought into the field struck the barons with such awe, that those of Limousin submitted their disputes with the prelates to his decision, and agreed to pay him tribute. Although his divorce deprived him of Guienne, which was acquired by our Henry II. marrying Louis's divorced wife, that province was recovered by his son Philip Augustus, together with Normandy, and indeed almost all the English dominions in France.

This great accession of territory to the royal dominions was

* Some doubt is cast on this passage of his life by the circumstance of his son not being present when he died. He was on his way from Bordeaux, and received the intelligence of his father's death at Poitiers. At least therefore the scene of the speech is wrong laid.

† Le Jeune.

in truth the foundation of the monarchy, both as regarded the extent of its limits, the independence of its position, and the authority of its government. When Philip Augustus began his reign his dominions were much less extensive than those of the English King, over whom his suzerainty* was merely nominal. Of the eighty-seven French departments now existing he had only eight, with the allegiance of twelve more over which he exercised some authority. Twenty did not even nominally obey him, but held of the Empire. The remaining forty-seven either belonged to the king of England or were under his influence and control. Henry II.'s quarrel with the Church prevented him from using the power which this superiority and his possession of the English crown gave him to the subjugation of the other French princes. Fortunately for them as well as for England the successor to his dominions had not his talents or his courage. The vices and the weakness of John, so precious to the people of England, were as important to the king of France; for they enabled him to decide the question till then doubtful whether the English or the French Crown should prevail. The character of Henry III., alike base and fickle, prevented any re-conquest until the French monarchy had acquired solidity and been further extended by the marriage of Louis's brothers with the heiresses of Provence and Toulouse. It may be very confidently asserted that a prince endowed with the capacity either of the first or the third Edward would, in the place of John or even of his son, have become sovereign of the whole country and made England, at least for some ages, a province of France. The possession by conquest of Normandy ever after, of Guienne for some years, and of Picardy which he obtained by negotiation with the Count of Flanders, enabled Philip Augustus both to make his duchy independent of all competitors, and, effectually controlling his barons, to obtain a power for himself which nothing had resembled since the reign of Charlemagne. Anjou and Maine, which had been the principality of Geoffrey Plantagenet, our Henry II.'s father, were conquered from John by Philip Augustus, and being separated from the Crown by Saint Louis, only returned to it on the death of Charles of Sicily in Louis XI.'s time. But in the reign of Philip Augustus both

* *Suzerain* is the lord paramount, the superior lord under whom other lords hold as vassals, these having themselves vassals. The term is generally applied to a foreign prince as lord over inferior sovereigns.

those fiefs were united with the duchy of France. The granting of charters to towns was continued by this prince; and it must be further observed that what he and his two immediate predecessors did in their own duchy, the great feudatories who possessed the other six principalities also did in their dominions. So that most of the towns in France received their charters during the twelfth and early part of the thirteenth century. By those charters the citizens acquired important rights. They were entitled to administer justice both civil and criminal in their own courts; and this privilege continued till the middle of the fifteenth century; after which only the criminal and police courts remained. They were also in most cases enabled to hold assemblies for taxing themselves, and to exclude the lords' right of taille. Their magistrates too were chosen by themselves, and their accounts were examined by persons of their own selection. The inhabiting a town, that is having a home in it, generally speaking gave all the rights under these charters. The great lords and prelates very soon found that granting charters was injurious to their power, by drawing away many of the people to inhabit the towns, as well as by raising an independent body of men to resist their authority. They therefore refused to grant any more, and in some cases attempted to revoke or to disregard those already given.* The king however, being now more powerful than before in consequence of the late conquests, made a point of taking part with the towns, protected them against the barons, and, whenever he had a fair pretext for interfering, granted charters. But whether the incorporation had been effected by baronial or by kingly grant, Louis VIII. declared that all corporate towns wherever situated were within his domain; and thenceforth the power of the barons must be regarded as subordinate in practice as well as in law to the authority of the Crown.

Although the rise of the towns had a very considerable influence in strengthening the Crown, it is plain that by far the most important element in its power was the great accession of territory

* Sometimes towns had obtained their privileges by purchase from the barons; and they frequently had obtained immunities and other rights without charters of incorporation. Some of these grants were made even before the reign of Louis VI. Nimes purchased exemption from certain duties as early as 1124; but it also had a constitution of a republican cast. Montpelier had obtained from a feudal lord an equally independent government. Toulouse also owed its independence to one of the counts; and Meaux received a charter in 1179 from the count of Champagne.

to the original Duchy, the fief of Hugh Capet. Normandy, Picardy, Poitou, Languedoc, were now nearly as much in the possession of the King of France as the Duchy, and much more under his power than the Duchy had been under that of Hugh Capet and his immediate descendants. None of the great fiefs could match this force; and accordingly the struggle for superiority was soon at an end. The last effort to dispute the supremacy of the Crown was made in the early part of Saint Louis's time (1242) in Poitou, where he had repelled the attack of Henry III. of England and other chiefs. One of these indeed was the count of Toulouse (Raymond), whose whole fief was in the course of a few years united to the Crown by marriage, after he had been so completely terrified by the priests heading a crusade-mob against him that he surrendered at discretion, and did public penance at Paris for having opposed the church.* By degrees the other great fiefs were united with the crown. Champagne came to Philip the Fair by marriage in 1284, and though he governed it in his wife's name, she being the sovereign, its strength was manifestly now combined with that of the Crown.—The county of Lyons which had been separated at the beginning of the eleventh century, was regained, partly by Saint Louis, but entirely by Philip the Fair at the beginning of the fourteenth.—Dauphiné came by treaty to Philip VI., 1349—Guienne was taken from England in 1370 with the exception of Bordeaux and Bayonne, which remained until the middle of the following century, when in Henry VI.'s reign we lost all but Calais.—Burgundy was united to the Crown about the middle of the fifteenth century; Provence by Louis XI., who claimed it as part of his legacy from Charles of Sicily at his death in 1481. But the States of the Provençaux were preserved in a kind of nominal independence; for the king always addressed them as Count of Provence, and the style of the courts of law was that of the Count's courts.—Brittany first came by the marriage of Claude to Francis I.; but she died in 1515, and the cession was not completed

* This crusade was in the minority of Saint Louis, but the panic which it occasioned had forced Raymond to give his daughter in marriage with the king's brother, beside surrendering part of his dominions and establishing the Inquisition. That persecution, however, could not have been foreign to his natural disposition may be inferred from his having 80 persons burnt for opinions before his face.

† The greater part of the province was at that time surrendered by the last Count de Vienne; and the title of Dauphin, which had been taken by those Counts for two centuries, was thenceforth given to the King of France's eldest son. Its origin is uncertain; the province was named from it.

till the states confirmed it in 1532.—Franche Comté was conquered from Spain by Louis XIV. and united in 1673.—Finally the southern part of Lorraine, the only part which belonged to the monarchy, was ceded in 1733 in exchange for Tuscany by its duke, afterwards emperor of Germany, as a provision for Stanislaus of Poland, Louis XV.'s father-in-law; and at his decease in 1763 by the stipulations of the same treaty it was united with France.

These successive incorporations of the fiefs with the monarchy are to be considered with a view to the power of the Crown under three heads corresponding with the three periods during which they were made; those, namely, of the earliest date effected before the end of the twelfth century by Louis VI. and VII., but still more by Philip Augustus—those effected in the thirteenth and fourteenth centuries by Saint Louis and Philip III. (the Bold), Philip IV. (the Fair), and Charles V.—and those made during the succeeding centuries at wider intervals and of inferior importance. The earliest unions enabled the duke, who was at first king of France only in name, to subdue his competitors for the crown, and to make its power really felt by them as vassals. The same unions, still further increased by those of the second period, enabled him to support the towns or third estate, and with their help to subdue the power of the barons in the territory now become parcel of his own great barony. The further increase of that barony during the last period strengthened his hands to increase his power over the aristocracy, and enabled him afterwards to maintain it with their help against the third estate. The way in which the union of the fiefs acted to raise the power of the sovereign was the same in all those periods; it was by giving him an increase of strength beyond what was required to support his authority in the new acquisition, and thus enabling him to apply the force of different districts in overcoming the resistance of any one, or of any portion of the community in one or in all. Thus for example, by the addition which Normandy made to his power, as Duke of France, he was enabled to prevent all struggle with the German empire or with the Spanish Crown, (each of which held the same feudal dominion over fiefs in the south and south-eastern parts of France respectively, that he did over the other fiefs,) and so he could establish himself king of the whole with more or less authority. This accession likewise enabled him to control the barons in his duchy and in Normandy

itself, as on these barons in each principality he brought to bear the force which he had in both. Afterwards the union of more fiefs, which the same incorporation of Normandy facilitated, enabled him to resist the commons, whom he had used in opposing the barons, as he now used the barons in resisting the commons. But if the great fiefs had not been formed into separate states with a prince or chief in each possessed of some power independent of his vassals, and having the means of also obtaining help from these vassals, the same course of events could hardly have taken place. For it was this kind of feudal relation that enabled the king to employ the resources of many against one. Thus for example, he had some followers in each principality (those namely in his domain) on whom he could rely and some revenue on which he could securely reckon. Each union of a fief increased these supplies of men and money. Then on pressing occasions he could call for the force of his vassals and their men, or for extraordinary aids in money; and when the assemblies or states in one principality refused, he could apply to another where they felt themselves weaker and were fain to yield. If the whole fiefs had been thoroughly incorporated and become one community with a central government and an assembly acting for the whole, probably it would have happened in France as in England, that the crown could do everything but raise money, and that the necessity of appealing for supplies to the people would have laid at an early period the foundations of a popular constitution, by giving the people a regular control over the measures of the prince. It is certain that no assemblies in any part of France, or at any period of its history, ever showed a more abject submission to the reigning sovereign, or followed his caprices more slavishly and more shamefully, than the English parliament in the fifteenth century and the first half of the sixteenth, with the single exception of money grants, on which alone any difficulty was ever found by the most cruel and profligate tyrants. But had England like France continued divided into seven principalities, each having its parliament as well as its domain, the Plantagenets and the Tudors would not have found much more difficulty in obtaining supplies from any one than they did in gaining the consent of the body which represented the whole seven to their very worst acts, whether legislative or judicial, of pillage and of murder.

The progress of the Crown in stripping the barons of their power was at first slow, and the surrenders being made reluctantly were of course made gradually and successively. The first attack was made upon their judicial power by Louis VI. (the Fat), who attempted to revive under another name the Missi Dominici, now for two centuries laid aside. He appointed *juges des exempts*, or persons to try causes in which the Crown was immediately concerned, what were afterwards termed *cas royaux*. But it is doubtful if they were continued even in his own domain where they could interfere with no seignorial rights; it is certain that they failed in establishing any extensive or even concurrent jurisdiction in the baronies.* Philip Augustus however succeeded in establishing the *baillis*, who, though of baronial rank, yet owed their appointment to the Crown, and tried all causes for which it was concerned, to the exclusion of ordinary baronial jurisdiction. This class of causes (*cas royaux*), though at first limited to the direct suits of the Crown, was soon extended to a number of others, and embraced not merely treason, sedition, offences relating to the coin, and (in civil matters,) Crown debts, disputed church patronage, cases relating to the possession of fiefs, but also questions of dower, succession, will, guardianship, nay whatever related to any grant or other act under the royal seal. Nor was there ever any authoritative definition given of these *cas royaux;* consequently the baillis, and afterwards their lieutenants, decided for themselves and enlarged their jurisdiction almost at pleasure. Saint Louis, and still further Philip the Fair, promoted the appointment of lawyers as lieutenants, and the functions of such baillis as were not professional men came to be exercised entirely by those deputies. Indeed Saint Louis's ordinances had given so great scope to the civil law that it became necessary to have professional assistance in the courts. He also introduced, by his ordinances abolishing ordeal and

* The barons stoutly opposed the changes in the jurisdiction as far as they could. The being subjected to any but their own order as judges was a great source of complaint and opposition—at first successful. In 1259 the Count de Sancerre refused to submit to the jurisdiction of the Court of Assize at Bourges, because burgesses sat in it: he required to have his cause remitted to that of Aubigni, where only nobles sat, and his demand was complied with. In 1315 the nobles of Champagne, in a remonstrance, required that they should not be compelled to appear before any prévôt or lieutenant of a bailli, but only before the king's bailli, who was of baronial rank.—Montlosier, i. 443, 450.

restraining private war, an appeal to his own court from that of the baron. The feudal appeal had been of a very different description from anything that now goes under that name; it was in fact an appeal like the ordeal to the judgment of Heaven, and the party challenged his judge to combat. Saint Louis, both in his ordinance against private war and in that against ordeal, confined himself to legislating for his domain only, not as yet venturing in the domains of his barons to interfere with rights so sacred in the eyes of men. But gradually the influence of his prohibitions extended itself as the royal authority was increased; and though the right of private war, as we have already seen (Chapter viii.), continued long after his time, the trial by ordeal was sooner abolished, and the appeal from the barons was established long before professional judges had supplanted them. The Civilians, who were in constant opposition to the barons on that account, as well as because they were practised in a code parts of which sanctioned the most despotic principles respecting the royal prerogative, aided the Crown with entire good will in the introduction of the slavish maxims prevalent in the eastern empire from whence, in its digested form, the Roman law had been imported. St. Louis's ordinance upon appeals was made in 1260; but his *Etablissements* were only compiled by the lawyers to whom he intrusted the work, the year of his second crusade, 1270, and were promulgated after his death.

The character of this prince is certainly the most remarkable with which any history presents us. That he had ideas far in advance of his age cannot be doubted. Yet it is equally clear that he owed these, not to the enlargement of his understanding, but to the extreme mildness of his disposition and the perfect candour of his mind, so unlike anything else belonging to the age—may we not say to the station?—in which his lot was cast. For it was another consequence of his entire sincerity in all things, that his early education having filled his mind with the most bigoted notions upon religion and everything relating to it, his whole soul was filled with the ceremonial observances of Romanism, and his time entirely devoted to its occupations. The natural gentleness of his heart was perverted by these superstitions and by the councils of his spiritual directors, as much as his life was tormented by them. Three times each night was he roused from his sleep to attend mass. In sickness, nay in peril of his life, he twice under-

took crusades, one of which kept him abroad for many years, to the destruction of thousands of his subjects by operations undertaken without the least regard to human councils, in a constant and vain reliance upon supernatural aid—the other of which sacrificed fewer lives indeed, but among these cost his own. To make Henry III. of England take the cross, he went the incredible length of bribing him with an offer of the conquered English provinces, and was only prevented from fulfilling this insane compact by the peremptory refusal of the Norman barons to join in the surrender. But the influence of his superstition is in nothing more strikingly manifested than in the opinion which he always held and promulgated respecting the duty of a true knight when he met with any unbelievers. He was bound, said the Saint, to hold no argument with them but instantly to slay them. Yet so peaceful, so placid was his temper, on all other subjects, that when some parties were brought before him for seditious expressions, the hundredth part of which would have ensured instant destruction from any other potentate in those days, or from our own Tudors in far more enlightened times, and when the offenders repeated the outrage in his presence, describing him in the coarsest terms as unworthy to reign and fit only for a cowl and a cloister, he calmly, unaffectedly, and with a smile, said, "it was all too true, and no one could be more sensible than himself how unworthy he was of the station to which Providence had called him,"—therewithal dismissing the culprits. It is melancholy to reflect that the only instance, perhaps, upon record of a sovereign whose single object in life appears to have been the performance of duties, real or supposed, and in whom every selfish feeling was habitually extinguished save that of seeking his own salvation, should have exhibited such rare virtue to so little purpose of good either for himself or his people, through the perversions wrought by that debasing superstition which inspired and controlled him. Yet it is undeniable that to the salutary reforms which he did bestow upon his country he was guided by the light of a purer religion piercing through the corruptions that, in those days, almost hid it from men's eyes. The struggles which he maintained against the wars of the barons and against the wager of battle were certainly undertaken from a deep sense of those practices being unchristian; and in this he thought for himself the priesthood being inclined rather to support the abuses than to put them down. Nor is it doubted that this general oppo-

sition to the great lords arose less from a desire to extend the royal authority, than from a sense of the duty cast upon him of civilising men whose lives were spent in excesses of every kind, and whose indulgence in licentiousness and oppression was strictly proportioned to their power. The inconsistency that shut his eyes to the more impious because wider spread cruelties of his own crusades must be set down, not to the caprices of the prince, of which he had none, but to the delusions of the sincere, and therefore, especially when armed with authority, the more mischievous devotee.

It may be questioned whether the whole compass of history, civil and ecclesiastical, furnishes so powerful a demonstration as is exhibited in St. Louis's life that the control of reason cannot be safely cast loose by men whose faith is the most steadfast and whose intentions are the most pure. But another consideration of great practical importance also presses itself upon our attention when we contemplate the dismal scenes which disfigure the annals of the middle ages, and which those of the sixteenth century display in even darker colours though within narrower limits. There was nothing illogical in the reasonings by which the most unsparing persecutions of those times were justified; on the contrary, the conclusion was inevitable from the doctrines which prevailed so universally that no one could be found to question them. If the Inquisitor and the Mussulman be right in holding that belief is voluntary, that faith is necessary to salvation, and that their Church is infallible, then, as all other sects must agree with them upon the infinite superiority of eternal to temporal interests, it becomes not merely the right but the duty of those endowed with power to use it for the purpose of conversion. The common sense of mankind and the common feelings of humanity may recoil, in more enlightened times, from the conclusion that those may be extirpated who will not be converted, and from its monstrous absurdity we may argue against the soundness of the premises from which it flows. But in darker ages and a harsher state of society men did not so reason or so feel; and we may rest assured that, even in our own day, the natural fruit of such dogmas is the infliction of as much vexation and oppression as can be endured without resistance or witnessed without a shudder.

The restriction and ultimate suppression of the right of private war was the greatest change in the situation of the barons, next to

the restraint upon their judicial powers and the substitution of professional judges; and it was resisted accordingly with much energy. Philip IV., finding that Saint Louis's* regulation of the royal truce, or interval of forty days required to elapse between the offence and the revenge, was not observed, prohibited in 1296 all private war while the state was engaged in hostilities, and in 1314 made a general and perpetual ordinance against it. But he was obliged four years after to restore the wager of battle, which he had at the same time suspended during public hostilities; and his feeble successor Louis X. (le Hutin †) was compelled by the barons to repeal the prohibition of private war in a great part of the provinces before it had been ten years in force; so that for a considerable time the principal check upon the practice arose from the *assurances*, or bonds entered into by order of the magistrate to keep the peace towards parties complaining, a proceeding first adopted in the towns, and which Saint Louis had extended to the country districts. The barons complained of this as much as of the direct and general prohibitions, but the evil grew so intolerable that associations among the nobles themselves were formed, and their members became voluntarily bound to abide by the decisions of the courts upon their disputes and quarrels. The Crown took advantage of this, and Charles VI. in 1413 published a general and peremptory prohibition enforced by severe penalties. In Dauphiné, however, the practice was only abolished by Louis XI. as late as the middle of the 15th century, when the feudal system had long ceased to exist in its pristine force.

The rights of taxing their vassals beyond the feudal perquisites, and of coining money within their lordships, were by the same gradual process taken away from the barons. When they had no longer the service of their people in war, and could not make the commutation of it the pretext for taxing, they yet clung to the right of levying aids, retained it partially, and were only made to give it up, the less considerable ones by compulsion, the more powerful by inducements held out, and particularly by pensions granted in compensation. Nor was it declared generally to be an encroachment on the Royal preroga-

* This is by some ascribed to Philip Augustus; but the sounder opinion ascribes it to St. Louis's ordinance of 1245.

† The Quarrelsome.

tive until 1566, when the ordinance of Moulins made it treason for any one not authorised by the Crown to levy money upon the subject.

The right of coinage had been enjoyed, it is said, by as many as 150 persons in the time of Hugh Capet.* There are known to have been eighty† in the time of Saint Louis, who began to abridge the right in 1262 by some wholesome regulations, but chiefly succeeded in discrediting the local coinages by the scrupulous honesty with which during his whole reign he avoided alterations of his own currency. Philip the Fair endeavoured to put down the local rights of coinage altogether; but his constant and most profligate tampering with his own coin, how oppressive soever it proved to his people, rather hindered him than helped him in destroying the rival mints. The right of coining gold and silver was, however, effectually abolished, and many barons gave up the copper coinage to the Crown, particularly in the time of Philip V. and before the middle of the fourteenth century. Succeeding Princes abolished it everywhere, although its last remains were only extirpated by Francis I. in 1538.

These changes were thus made by degrees and according as each succeeding King found himself able to cope with the powers which all equally desired to restrain. The proofs are numerous that it was necessary to recognise the rights which they were seeking to destroy—to confirm what was left when any part was taken away; and it not unfrequently happened that what one Prince abolished, another was obliged for a time to restore when his authority was weakened by the accidents of war or of revolt. Thus ordinances may be cited of every reign from St. Louis to Francis I. regulating the jurisdiction of Seneschals and Baillis and giving them various powers, but always directing by saving clauses that the jurisdiction of the barons who had right of *Haute Justice*‡ should not be interfered with unless in the *Cas Royaux*, or by way of appeal, where such lay from the decisions of their courts. M. Montlosier§ refers to

* Montlosier, Mon. Fran. i. 191.

† Mably, iii. 409 (sec. iv. ch. 3, note).

‡ The right to try in their courts the greater number of offences, even capital, and civil causes of various kinds. This will be afterwards more particularly explained.

§ Monarchie Française, tome i.

nine of these ordinances in nine several reigns, beginning with one of St. Louis in 1254, and ending with one of Francis I. in 1558; and these ordinances treat the judges of the barons as the ordinary judges of the district. We have seen how Philip the Fair's sons were obliged to relax his edict against private war. Indeed he was himself forced to limit its execution before his death.

The right, however, which the nobles valued most after their seignorial privileges was the *droit de franchise*—that exemption from taxes which sprung originally from their ancient feudal immunities and was supported by the principle adopted after the rigour of the feudal law was relaxed, that the consent of each order was requisite to authorise its being taxed. We have seen how the Sovereigns obtained a consent (or what they chose to represent as such) in many instances from the Commons; and how they could levy upon a number of towns, sometimes upon the people at large, what a few by their deputies had offered to pay. The consent of the barons and of the clergy was not so easily obtained; and although some attempts were made to tax them with the rest of the community, these so generally failed that those two orders are commonly represented as having been exempt from taxation. This is exceedingly incorrect. Not only they paid all duties which were laid on consumption—among others, one of the most oppressive, the *gabelle* or salt-tax—but many direct taxes imposed occasionally with the consent of the states. What they claimed was, to pay no *taille* (or tax upon land and farmer's income), and no other tax unless imposed with their consent in the states; so that the Clergy and the Commons might not bind the Nobles, nor the Nobles and Commons bind the Clergy. This was repeatedly admitted by the Crown to be their right; and although the admission generally applied to the Commons also, (being for the most part an admission, that no one of the three estates could be bound by the consent of the other two,) yet the difference was, that in the case of the Commons the Crown generally disregarded it in practice, which in the case of the Nobles and Clergy it very rarely did. Philip the Fair, who was the most tyrannical of all the Kings before Louis XIV., among many other edicts which he issued without any authority from either States or Parliament, published one which in every respect amounted to a tax, and of his own sole authority. He required all persons, noble as well as roturier, to furnish so many soldiers in proportion to their

revenues, the former one foot-soldier for every fifty livres, the latter one for every twenty-five, but allowed the service to be commuted for money. He further required each noble and ecclesiastic to furnish a horseman for every hundred houses. But his son Louis X. declared on behalf of his successors as well as himself that he had no right "to raise any sum whatever (*aucun denier*) without consent of the three estates, and that they were to superintend the application of the money as well as the raising of it." Recognitions of the *droit de franchise* equally strong were made by Charles V. and succeeding princes; and these were from time to time disregarded, but much more with respect to the Commons than the Nobles and Clergy. Combinations were repeatedly formed of the different orders when all were alike invaded, and sometimes these prevailed so as to make the Crown desist, sometimes the claim of the Crown was abandoned for the time, but with a reserve of its right in other circumstances; and at length Charles VII., after things had proceeded to open resistance, although he abandoned the particular tax objected to, openly affirmed in his answer to the remonstrance of the Princes that "in any emergency of great difficulty the King had a right to impose taxes without calling together the three estates." Still the nobles generally escaped; and the aids or benevolences (*dons gratuits*) which the Crown obtained from them and from the Clergy were almost always with their consent in an assembly of the States.

The taille meanwhile was imposed regularly on the Commons. From the year 1445 it was a yearly tax, and though it then amounted only to 1,800,000 livres (£72,000), it was soon increased to a much larger sum. It was fixed by the Privy Council and distributed among districts (called *Généralités*) into which the kingdom was divided for the purpose of collection. The greatest abuses were practised in this distribution as we shall afterwards see. In 1761 it had reached the large amount of between fifty-six and fifty-seven millions (two millions and a quarter sterling), beside the sum of ten millions (£400,000) paid by the four provinces, which were pays d'états, and made this composition for leave to assess themselves.* At length Louis XIV. without any consent of the States, laid a tax of the twentieth

* The taille included, beside this sum by way of consideration for service, smaller sums of a like origin, as their names imply. They were called by the French names for forage, utensils, arms and impositions, winter quarters, &c.

penny (called the *vingtième*) upon all classes of the people, and this the noble paid as well as the commoner. It was an income tax and only levied occasionally. The Clergy were allowed to compound by payment of a *don gratuit;* the Nobles paid like the rest of the people. It differed from the taille in attaching on income of every description, and in not being yearly; for it was only resorted to in great financial difficulties and chiefly in time of war. Thus it was three times levied during the Seven Years' War, and yielded, with the ten per cent. then added to it, above a million and a half sterling each time. The clergy gave a *don gratuit* and were exempt in consideration of it. In 1742 this amounted to about half a million sterling. Louis XIV. also imposed of his own authority the capitation tax, which was first laid on in 1695; it was in proportion to the income of persons assessed, and was paid by all inhabitants of towns, even by Princes of the blood; but the Clergy paid a composition. If the Sovereign could thus levy taxes without consent, it may easily be conceived how much more easily he could tamper with the coin of the realm. Except St. Louis, there was hardly one who did not resort to this vile expedient almost as an ordinary measure of finance; sometimes debasing the money by adulterating it, sometimes raising its denomination—nay, alternately raising and lowering it according as the Crown had debts to discharge or payments to receive. The Princes of all countries in earlier times have had recourse to such practices, and have not abandoned them even in later periods of history. But in no country have they been more resorted to than in France. Philip the Fair changed the value of the coin five times in a single year (1305), and actually drove the people to insurrection by the oppression which these operations occasioned.

While the power of the Crown was increasing and that of the barons shrinking within more and more narrow limits, the tendency of the aristocracy to ally itself with the King and his Court became more and more apparent as their independence was lowered. Even as early as Philip the Fair they showed a fondness for Royal favour, and regarded with complacency marks of kindness from the King, whose superiority to themselves their ancestors had formerly studiously refused to acknowledge. This was one of the most incontestable proofs of the Crown having obtained a victory over the barons; and it is remarkable that no

sooner was its superiority established than we find attempts made against the towns whose alliance had in part at least contributed to the victory. Even while the success was only partial, the increase of the Royal authority by the extension of the domain was followed almost immediately by measures of encroachment upon the towns. As early as St. Louis's time, we find that his brothers Alphonso of Poitiers and Charles of Anjou, (who, as we have seen, extended the royal authority by marriage with the heiresses of Toulouse and Provence,) subverted by force the privileges of Avignon and of all the Provençal towns except Marseilles, about the middle of the thirteenth century. This subjugation did not last for many years; but the tyranny of Philip the Fair, half a century later, was exercised upon the liberties of the towns both in the north and south, principally upon pretexts afforded by partial insurrections, or even lesser disorders. In after times the union of the Crown and the privileged orders, with an important change which the disasters occasioned by the English invasion under Henry V. enabled the sovereigns to effect, gave them power to strip the towns by degrees of almost all the privileges they had ever enjoyed. The change to which we refer was the introduction of Standing Armies.

The outrages committed by the soldiery during the wars with the English, and by those who were disbanded, both French and English, in the intervals of the campaigns, involved the whole country in anarchy and pillage. Bodies of men who had really armed themselves from patriotic motives in defence of the country, when not engaged against the enemy, turned their arms against the peasantry, the clergy, and the less powerful gentry. They gave themselves the name of *Ecorcheurs* (flayers, or butchers); and their excesses prepared the minds of all men for any severity by which such an intolerable grievance could be suppressed. The States General being assembled at Orleans in 1439, an ordinance was made providing for the maintenance of 9000 cavalry—that is, 1500 lances, with five mounted attendants upon each horseman or spearman; prohibiting any one but the King from appointing captains to any force; holding the barons responsible for all excesses committed by their own followers; subjecting all persons to the ordinary judges; granting the taille for the expense of the force to be raised, and making the barons accountable for such part of it as should be raised within the

district of each. This law was not fully executed until 1445, when the regular pay allowed by it of ten livres a month was found sufficient to attract all the best men in the armed bands who infested the country; and the rest, alarmed at the force thus raised, and at the vigour of the government, speedily disappeared. Three years afterwards another ordinance, supposed to have been suggested by Jaques Cœur,* a rich merchant, and a man of great capacity, employed by Charles VII. as his minister of finance, provided for the levying of about 16,000 infantry, bowmen (*franc-archers*), being in the proportion of one man, completely armed, from each parish. Their pay was four livres a month. This ordinance proceeded from the King, unauthorised by the States General, whom Charles never ventured to assemble after they had passed the ordinance of Orleans—alarmed, as is said, at the unprecedented power which they had in that measure exerted against the barons, and which he felt might afterwards be exerted against himself. The strength, however, which he had acquired by the regular armed forces thus embodied, enabled him to increase the taille from £48,000 to £72,000 in a few years, and to make it perpetual without any new grant. He also established *Cours prévôtales*, or criminal tribunals all over the country, under the Prévôt of Paris and his deputies, for the summary trial and punishment of all offenders without any definition of the crimes or any forms of procedure laid down; and so unbearable an evil is the want of security arising from relaxed police, that all submitted cheerfully to a law which destroyed every vestige of regular judicial proceeding, and even of civil

* There are two curious papers in the *Mémoires de l'Académie des Inscriptions*, tom. xx., by M. Bonamy, on the trial of Jaques Cœur, his history after his condemnation, and the proceedings afterwards instituted and persevered in for thirty years after his decease by his family, for obtaining justice to his memory and the punishment of his accusers. The trial, first for poisoning the King's mistress, Agnes Sorel, and afterwards (when that charge entirely failed, and his accuser and the only witness against him, Joan de Vendome, was convicted of calumny, and condemned to make reparation) for such offences as exporting the current coin, giving the King bad advice, encouraging infidels in the East, &c., is a monument of the scandalous injustice and corruption of judicial proceedings in those days, as bad (worse they could not be) as the political trials in our own country at the same period. Jaques Cœur was tried before special commissioners, who received, immediately upon his being convicted, and before the commencement of the proceedings, each his share of the property of the accused, which was seized and in part confiscated as a preliminary to the trial. The Crown took also a large share. In truth it never was denied that his great wealth formed the real ground of the proceedings against him.

liberty, at the same moment that the levying of the only tax then known had for the first time been made to depend on the mere pleasure of the sovereign. Philip de Comines, speaking of this change and of the standing army now raised, ascribes Charles's power of enforcing these novelties to the aid of the Knights who had helped him to defeat the English; but he hints that the attempt would not have succeeded without "certain pensions promised to the barons in respect of the monies which should be raised on their estates;" and he adds, that Charles, "heavily loaded his own soul and the souls of his successors by the cruel wounds which he inflicted on his realm, and which will long bleed, and by the terrible band of paid troops which he instituted after the manner of the Italian lords."* It is remarkable that to the same Prince France owes the recovery of her independence, after being conquered, and the first measures taken for reducing her customary law into a regular form; but also owes the establishment of a standing army, till then unknown in Europe, and the subjection of the nation to taxes, imposed without even the semblance of popular assent. His abilities were irregular and capricious in their exercise; but of his capacity for government being naturally great, there needs only this proof, that he was so happy in his choice both of his captains and his ministers, as to obtain the name of *Charles le Bien-servi* (the well-served).

The same policy was pursued with more steadiness and carried to a greater extent by his successor Louis XI., one of the most able, most unrelenting, and most profligate tyrants that ever disgraced humanity;† but one whose talents and accomplish-

* Mem. liv. vi. ch. 7.

† It is quite unnecessary to inquire whether or not he was guilty of the murder of his brother, the Duc de Guienne, and of his mistress, or other similar crimes, of which he was openly and repeatedly accused. His cruel and perfidious massacre of the deputies of Arras, beside the butcheries which he committed at Dôle, stamp him with a character of cold-blooded barbarity, more resembling the worst of the Roman Emperors than any modern tyrants. He seems to have had a savage and unnatural delight in deeds of blood. When the Arras deputies, twenty-three in number, of the first citizens of the place, had left him after being courteously received, having learned that his troops had gained an advantage which made it more easy for him to do as he chose, he immediately sent officers to overtake the deputation, who suspecting nothing, suffered themselves to be brought back. They were all put to death; and one of them, to whom the tyrant had offered the place of councillor in the Parliament of Paris, he ordered to be disinterred, that his head might be exposed with a Mortier cap upon it, in mockery of the place which he had

ments have so far bewitched historians that he is praised by many as amongst the greatest of princes, and that to him they have ascribed the change in public policy which took place in his time, when the interests of the state, both foreign and domestic, began to occupy the attention of the government, formerly directed exclusively to the personal quarrels or alliances of individuals. This change was, however, not confined to France; it extended over the rest of Europe upon the revival of letters and the invention of printing. The early part of Louis's reign, while he was struggling for superiority and often for existence with the Burgundian party, is marked by no excesses, and only by the preparations for his tyranny, in the measures taken to reduce and finally extinguish the baronial power. Some of his plans are deserving of unmingled praise, and some are anticipations of important changes that have been resumed and completed in our own times. His charters to many towns were framed upon principles that would have been reckoned liberal in the nineteenth century. Not only did he give the cities of Orleans, Amiens, and other places, the privilege of holding noble fiefs, but he conferred upon Troyes, Tours, Rochelle, constitutions almost wholly republican, and upon the latter port the privilege of free trade, even during war with the enemies of the state. The militia of Paris and other great towns owes its origin to him, and we trace in its establishment the institution since so famous of the *National Guards*, not excepting that most doubtful part of the system which gives to the men the choice of their officers. The number for Paris, comprising all between the ages of 16 and 60, was 60,000, and they were exempted from service in the *ban* and *arrière ban** or the general array of the country in case of emergency. All his plans, however, when he had subdued the rival princes of the blood, and extinguished the power of the barons, centered in establishing his own despotic authority; and beside raising the standing army to three times as many horse and twice as many foot as Charles VII. had maintained, in all between

offered, and of which that cap was the badge. The atrocities of another royal criminal of the same age, our Richard the Third, certainly did not equal those of Louis, although the flatteries of courtly authors have spared, and even praised the one prince, while the more honest page of our homely chroniclers, protected by the change of Dynasty, have taught us to regard the other as a monster.

* *Ban* (proclamation) was properly the levy of the Crown vassals, and *arrière ban* that of *their* vassals.

50,000 and 60,000 men, and increasing the taille from £72,000 to £188,000, he took into his pay foreign mercenaries; first, a body of Scotch bowmen, then 6,000 Swiss, to whom he chiefly confided the safety of his person, and whom he generally kept encamped by themselves and in one place. This practice of trusting to Swiss mercenaries never afterwards was disused by the French sovereigns, and when the season of real danger arrived, it had the reverse of the effect expected from it.

The despotic reign of Louis XI. was followed by a minority of some years, during which Anne of Beaujeu, the King's sister, could not sustain the power which the preceding sovereign had acquired; and when Charles VIII. shook off her authority, his mild character and entire want of capacity were found still less adequate to maintain the tyranny of his father. The ruinous expense of the wars, which he carried on in Italy kept him in constant financial embarrassment. But the most remarkable event of his time was the struggle with the Crown which was maintained by the States General assembled at Tours during his sister's regency, to repeal the taille and whatever other taxes had been imposed by the sole authority of the Crown, and to have their exclusive right of taxing recognised. The two privileged orders, however, the nobles and the clergy, being exempt from those burthens, joined the Crown against the people; and one of the nobles openly propounded the truly detestable doctrine that the "lower classes must be well loaded with taxes else they will rule the rest of the community." Some deputies, and particularly the representative of the nobles of Burgundy, used a very different language, asserting in plain terms that the people are the origin of all power, including the King's power, and that King's and princes and nobles alike belong to the body of the people, and are bound to regard only the people's advantage. Such language as this distinguished patriot held forms a worthy contrast to the other deputy's aristocratic doctrine; and as the name of the former has reached us, (Philip Pot,) that of the latter is buried in the oblivion which alone could save it from infamy.

The admirable qualities of Louis XII., which restored France to some enjoyment of domestic tranquillity and even freedom, were the more admired and beloved because they formed a striking contrast to the tyranny of Louis XI., from which the intervening reign of Charles VIII. was too much occupied in foreign

wars to give the nation time for recovering. But Louis XII., like his immediate predecessor Charles, had the peculiar vice of kings, and had it in excess. The Italian expeditions of both these princes, and their other wars, exhausted the resources of France, occasioned leagues of foreign states against them, and are inaccurately* represented by historians as having laid the foundation of the principle so often spoken of since, and so seldom honestly and wisely acted upon—the balance of power—that of States joining to protect the weak from the strong, not from any view to their own immediate interests, but in order to prevent any one from gaining an overgrown strength which in future may prove generally dangerous. Louis XII. is illustrious among kings for the maxims of his domestic administration. He sought out the ablest and best men to fill his courts of justice; he issued ordinances commanding that the law be always followed, notwithstanding any orders which importunity might extort from the King; and he professed himself better pleased to see his courtiers laugh at his avarice than his people weep over his expenses —a truly noble and virtuous sentiment which but few princes have ever felt, and none other has expressed. To complete his glory as a ruler there wanted but two things; that he had never felt the accursed ambition of a conqueror; and that, while he owned the alarm which filled his mind lest his successor should spoil the fruit of all his labours for the people, he had given them security against future misgovernment by endowing them with constitutional rights. His successor Francis I. realised his worst fears; and having been a brilliant prince has been the theme of praise with thoughtless men, and with romantic historians who pamper their bad passions and their false taste.

The history of France after his time and during the whole of the sixteenth and a part of the seventeenth century, is a catalogue of the frightful crimes incident to civil war, rendered more horrid by religious differences mixing with the quarrels of ancient families, assassinations, perfidies, massacres; among others, that dreadful murder of the Protestants in Paris by the detestable family of the Guises and the fury Queen, Catherine of Medicis, when her son Charles IX. himself fired upon his subjects from the windows of his palace, and Paris was bathed in the blood of

* The same principle was fully recognised in the policy of the Greek States, and is distinctly appealed to by their orators.

her most virtuous inhabitants. They who justly reproach the people with the deplorable excesses into which the heats of revolutionary times sometimes hurry men, should reflect with yet greater horror on this massacre contrived in cold blood by royal heads, and executed without any excuse of temporary excitement by royal hands, the avowed purpose of which was to get rid of one individual (Admiral Coligny) because his virtues and talents had made him formidable to the ruling party. But the fanaticism which had seized the people engendered an equal ferocity in them against the sect which dissented from the Established Church; the devoted friends of the Establishment deemed it a work for the glory of God to murder those dissenters; and the crime which most of all stains the annals of France, and will through all ages cling to the name and the memory of royalty, was made the subject of public exultation and celebrated with popular rejoicings, when it should have made every Frenchman bow his head to withdraw his blushes from the day.

The reign of Henry IV. which succeeded those horrid scenes proved of inestimable service to France, by restoring religious peace to the country. In 1598 he published the celebrated edict of Nantes, securing to all the liberty of conscience and of religious worship, and his efforts were in general directed to promote the prosperity of his subjects. The royal authority had been weakened during the civil and religious wars which had so long distracted and exhausted the country; but nothing had been gained for the liberty of the people. The excess to which tyranny and resistance might be carried had been shown at a very short interval, when Henry II. could come down to the Parliament of Paris and order five of its judges to prison for having presumed to decide in favour of a Lutheran accused of heresy, and the same body could declare his son, Henry III., dethroned, and even order him to be prosecuted, not indeed for the murders which he had committed, but for his opposition to the chiefs of the Catholic party. The people having gained nothing by the convulsions of those dismal times, lost nothing by the more regular authority, though sufficiently rigorous, which succeeded; but the power of the Crown was carried to a higher pitch under the able, though unprincipled, administration of Louis XIII.'s most powerful minister Richelieu; and whatever it afterwards lost during the minority of his successor, Louis XIV., was more than compensated

by the systematic establishment of absolute power which he was enabled to effect when he had dazzled the nation by the successes of his wars, and by the splendour of his court. We have seen how he reduced the Parliaments to submission if not to insignificance, exercised the whole power of making laws and levying taxes by his sole authority, and left no restraint upon the power of the Crown but such as the respect borne to courts of justice, the existence of a nobility, and the recollection of rights once possessed by the Parliament, might impose. Always a tyrant, towards the end of his reign he became a bigot also, and acting in the spirit which bigotry never fails to engender, tried to do God service by persecuting all who would worship him in a way unlike his own. In 1678 he revoked the edict of Nantes, and the Protestants, among whom republican sentiments had since the accession of Louis XIII. been prevalent, universally left the country, carrying with them their free spirit, their conscientious integrity, their ingenuity, and their industry. In all tolerant states they found an asylum, and repaid the favours of hospitality by the accession of useful and virtuous citizens, and the importation of independent principles.

The disasters which clouded the evening of Louis XIV.'s days sprang from his unprincipled ambition. The history of modern times presents no picture of which the shades are darker than the devastation of the Palatinate undertaken by that infamous monarch under the advice of the less infamous Louvois, upon whom the flatterers of kings, both courtiers and historians, are wont to cast the blame, that the tyrant, who rewarded artists and authors and spared neither the blood nor the rights of his people, might escape without his share of execration.* A peaceful, flourishing, and industrious people, were suddenly exposed to the horrors of a warfare only to be equalled by the atrocities of a Tartar inroad. Cities were reduced to ashes; graves despoiled, and the ashes of the dead scattered about the streets; women and children butchered; thousands of inhabitants driven from their homes and left to perish in the fields or on the banks of the rivers. But Louis XIV. paid by general defeat the penalty of

* There is an anecdote recorded by the French writers of Memoirs, that the King having chid Louvois for an order he had given about a window at Versailles, the minister said he should be obliged to give the King other employment; and so set him upon the invasion of the Palatinate. Were the story true, it would be no vindication of the individual, and an aggravation of the charge against the system.

his many crimes, and he died stripped of all his conquests and beaten on all points; his reverse of fortune did not however restore to the Parliament those rights which his early successes had enabled him to destroy. His successor, Louis XV., a prince wholly devoted to his pleasures, and who led under an experienced courtesan a life of avarice and profligacy, raised the Parliament into a momentary and apparent importance, by employing its aid in defeating and banishing the Jesuits. Presuming upon this, it mingled in some court intrigues, and was in consequence reduced by the King's authority to utter insignificance during the last years of his long and inglorious reign; a reign in which the effects of monarchy on the interests of the nation were strikingly exemplified by the disastrous war undertaken on account of the marriage of the Dauphin, afterwards Louis XVI., with Marie Antoinette of Austria. This alliance was contrary to the whole national policy of France, and involved her in the greatest embarrassments both at home and abroad.

The absolute power acquired by the Crown was attended with its constant effects upon the dispositions of the people, carried perhaps further than in other countries by the peculiarly susceptible nature of the French. The tyranny of Louis XI. entirely subdued them, and that of Louis XIII., or rather his minister, Richelieu, held them in the same subjection. Under such government they abandoned all concern in the public policy as entirely as if it were wholly foreign to their interests. But when the feeble administration of the two minorities of Charles VIII. and Louis XIV. succeeded to the rigor of those despotic reigns, the people recovered themselves, and afterwards broke out into all the excesses of the League and the Fronde, joining in the civil wars and massacres which desolated the country under Henry III., and in the lesser intolerance which drove Mazarin from the ministry, and the Regent Anne of Austria, Louis XIV.'s mother, with her infant son from the capital, while it gave the Parliament a temporary victory over the court. When Louis XIV. had established his control, the people again sank into abject submission; and the national vanity being gratified with the splendour of his administration, a feeling grew up of the most pernicious kind, and tending more than any other to rivet their chains. They took a pride in the power of their tyrant, as if it were a portion of the national glory; and their loyalty became a

blind enthusiasm to the Crown rather than a rational respect for the benefits which it secures. The crimes of Louis XIV., his oppressions, his persecutions, his wars, even his defeats, were unable to excite the least opposition to his course; and the scandals of the Orleans Regency found all classes, Nobles, Clergy, and Commons, alike ready to submit without a murmur. Even when Louis XV. took the government into his own hands, ruling as absolutely as the Regent, while he lived almost as profligately, and without any of that prince's brilliant talents, the devotion of the people knew no bounds; and a prince who had done no one act to merit their favour was idolised, and surnamed the "*Well-beloved,*" simply because a sudden and dangerous illness with which he had been stricken, occasioned an epidemical anxiety all over the country, as if each family were about to lose its most cherished member. Such are the fatal consequences of absolute power in debasing the character of a gallant, a generous, and an ingenious people; and in proportion to the magnitude of such evils is the necessity that every nation should jealously watch the conduct of its rulers and its own feelings, lest authority rise into domination and loyalty degenerate into subserviency.

We have now traced the power of the Crown in its most important particulars, and we have seen that it really could both levy money and make laws generally, having only to apprehend an occasional struggle with the Parliament—a struggle to which a little firmness on the sovereign's part ensured a successful issue. Even if he was generally prevented by the apprehension of popular tumult from imposing new taxes, those who denied that any such were lawful without a consent of the States General or a registration in Parliament, never pretended that there was any control whatever upon the manner of levying and applying those already imposed; and by changes in the mode of collecting, he could almost at pleasure increase their amount, or spare one class and load another; and could employ the whole revenue in the manner most suited to his personal interests or his arbitrary views.

But his unlimited power of imprisonment and banishment was the most effectual engine of tyranny. This power was exercised by issuing a letter which the King signed and a secretary of state countersigned: it was sealed with a small seal or signet, which the kings used anciently to wear on a ring: it was written

on a sheet of paper and folded so as not to be read without breaking the seal. Hence such letters were formerly called *close* (*Lettres closes*), to distinguish them from *Letters patent*, which were open; and they were latterly called *Lettres de cachet*, or seal letters. They were employed on the various occasions on which the King's personal and royal authority was to be exercised; sometimes upon so unimportant a matter as ordering a procession or a *Te Deum;* sometimes to order that a royal ordinance made by the King's mere authority might be presented for registration. But the use of them which is best known was to order the banishment or the imprisonment of any person who was not sentenced or even proceeded against in any course of law; and their employment for this purpose, and consequently the power of arbitrary imprisonment and banishment, was coeval with the earliest ages of the monarchy. The first instance is supposed to be that of Queen Brunehault, who thus banished St. Columban at the beginning of the seventh century. This power continued until the Revolution, 1789, to be exercised more or less frequently according to the individual temper of the sovereign or the circumstances of the times; but it was subject to no control whatever and exercised without any responsibility.*

It is now necessary to consider the condition of the Nobility under the same government. Its origin is involved in great controversy. Some hold that all the Franks who came over with Clovis, and their descendants, as well as the Roman office-bearers and their descendants, were the first nobility: to these they add the Gaulish Knights. Others think that *Gentilshommes* were all who were born noble, *Chevaliers* all who were created; and they divide the order into three classes,—Princes; Dukes, and Counts; Chevaliers. It seems probable that the mere pos-

* The following is the form of a Lettre de Cachet. It was addressed to the gaoler or other person who was to receive and keep the prisoner or to do any other thing required, and the person delivering it made a minute (or *procès verbal*) of the time of the delivery, and took a receipt from the gaoler:—"Mons. ——, Je vous fais cette lettre pour vous dire que ma volonté est que vous (setting forth the thing to be done) dans (setting forth the time within which it was to be done). Si n'y faites faute. Sur ce je prie Dieu qu'il vous ait en sa sainte et digne garde.

(Countersigned) Louvois. (Signed) Louis,"

Mr. , I write you this letter to acquaint you that it is my pleasure that you (convey the body of , to the prison of , within twenty-four hours). Herein fail not. Whereupon I pray God to have you in his holy and worthy keeping."

session of a fief, or even of a dignity, though originally a means of acquiring nobility, did not of itself confer it in aftertimes, and that though anciently Prelates, Dukes, and Counts, being Governors and indeed petty Princes, granted letters of nobility, yet afterwards only the sovereign and those authorised by him (as the University of Toulouse empowered by Francis I.)* could enoble. Ultimately we may reckon four sources of nobility; descent—military service of certain kinds—judicial and other offices of certain kinds—letters of creation.

The privileges of nobles anciently were very extensive; their modern privileges, down to the Revolution, though more restricted, were not inconsiderable.

Anciently, they were the first order, though the clergy afterwards took that place. They served on horseback, the roturier on foot. When made prisoners of war, they had double rations of food. They had fifteen days' notice when summoned to serve the lord in war or at his court. The roturier was summoned on the same day that his appearance was required. They alone could hold fiefs, alone possess the right of hunting. A noblewoman, owner of a fief, on bearing a son, became merely tenant for life, and could devise only a fifth of the rents and profits; whereas a nobleman continued owner after his son's birth, and could devise a third. The son, on his marriage or knighthood, was entitled to a third of both father's and mother's land. When sued in a real action, the noble tenant (defendant) had a year and a day's respite before being called to plead. On an appeal, the noble, if defendant (appellée), fought on horseback, the roturier on foot; but both the one and the other fought on foot, if appellant. When confiscated by the lord, the noble vassal retained his palfrey, his sumpter horse, his wife's bed, and other chattels of value. If his father died seized, the infant being noble, could not be called on to defend a real action. When liable to a tax depending on income or other means, the noble was to be believed on his declaration as to the amount of property unless the assessors had reason to suspect fraud. The nobles paid heavier fines when convicted of offences, but were punished by dishonour when the roturier was punished corporally. In Dauphiné their household goods could not be seized for debt if they had any other property. In Champagne they could only

* The power of making Chevaliers was given to the council of that body.

be put to the torture in capital cases, and where the presumption of their guilt was strong. (Ordinance 1315.)

These privileges were gradually abolished and had ceased many years before the Revolution; but others still remained to this favoured class, and continued to the last. There were certain monastic orders, certain military orders, and certain chapters, which the nobles only could enter, and others in which they had the preference over roturier candidates. They could obtain university degrees after a shorter time of study, and could hold livings without degrees, which to the roturier were necessary. They alone could, with Papal dispensation, hold several benefices in the same cathedral; they alone could take the feudal titles of Duke, Count, Marquis, Baron, from the possession of a fief. They were exempt from the taille, and could themselves cultivate four ploughgates without paying it as cultivators; they were exempt from the *corvée*, or obligation to repair roads, and the *banalité*, or obligation to grind their corn at the lord's mill, where these duties were personal. They could possess fiefs while the roturier had to pay the *droit de franc fief* for a dispensation to hold them. The noble alone had a right to wear a sword and have coat of arms; he was not subject to serve in the militia, but only in the *ban* and *arrière ban*, or levy upon invasion and rebellion; and he was only liable in cases of extreme necessity to have troops billeted upon him. He was not to be punished with flogging; he was beheaded and not hanged, unless for treason, larceny, perjury or subornation. The noble widow of a roturier resumed her rank which she had lost during marriage. The different classes were allowed to manage their own affairs at different ages: the noble was of age at twenty-one, the roturier at twenty-five, the king at fourteen. The noble and roturier had the same right as to hunting: that is, neither enjoyed it without possessing a seignory; but the noble alone could sport on the royal lakes and rivers. The noble carried his cause at once before the bailli or seneschal, passing by the inferior royal judges; and he was not subject at all to the jurisdiction of the *prévôt des marchands* or of the *juges présidiaux*, the small debt courts established in the sixteenth century.*

* Henry II. in 1551 appointed these judges to try causes of 250 francs in amount, or 10 francs rent, their decision to be final. They could try to double that amount, subject to appeal.

Creations (*lettres d'annoblissement*) are supposed to have first been made in 1095 for money, by Philip Augustus. Certainly they were sold as early as Philip III.'s time; but Philip de Valois chiefly carried on this traffic. Some of his grants (1339) specify that they were gratuitous (*sans finance*). The price then varied from thirty to eighty gold crowns (from £12 to £32), equal to ten times as much at this time. Henry III. created a thousand nobles in 1516 by one edict. Louis XIV. in 1696 created five hundred, and the sum of £240 was paid by each. In 1702 he created two hundred, and in 1711 one hundred more, by edict. In some cases Letters were granted with the name in blank, so that there was a nobility given to the bearer. The sovereign has been mean enough to compel persons of substance to take a creation, and pay for it. Henry III. in 1577 forced it on a rich cattle-dealer, from whom he extorted 30,000 livres, or about twelve hundred pounds, equal to as many thousands at this day. Grants of nobility, made imprudently, were often revoked unjustly. Henry IV. revoked in 1598 all those of his immediate predecessors, but he restored them eight years after. Louis XIII. revoked in 1640 all the titles of nobility granted for the last thirty years; and Louis XIV. revoked in 1715 all since 1689.

Nobility was lost by *dérogation* (*dérogeance*) and *dégradation*. *Dérogation* was when a noble engaged in retail trade, exercised a mechanical art, farmed another's land, acted as a police officer; but maritime commerce, or wholesale trade, did not derogate; and no child born before the act of derogation was affected. If only one or two generations derogated, *letters of réhabilitation* restored the nobility; but if more, a new creation was necessary. In Brittany, the privileges only were suspended; but the nobility was not affected by acts of derogation. Capital punishment, except by beheading, forfeited nobility; and the degradation extended to all the children.

It is now necessary to consider the nature of the Feudal Rights and Burthens, in order to understand how great a grievance was suffered by the people under the old monarchy, and how the enjoyment of property was affected by the distinction of ranks. Lands were either *franc-alleu*, holding of no lord; or *fief*, holden by noble services; or *roture*, holden on payment of rent (*en censive*). The fiefs were sometimes distinguished into

noble, those holden of the crown; *moins-noble*, those holden of the former; *médiocrement noble*, those holden of the latter; and *non-noble*, those holden of the third class. Again, the *fiefs nobles* were such as had rights of justice, and of having fiefs holding of them; and *non-nobles*, those which had neither justice nor tenure. In some provinces, as Artois, the subfeudatory could, by the lord's consent, grant perpetual leases for rent certain (*baux à cens*), and so make his fief noble, and acquire a right to jurisdiction.

The most important right of the lord was his jurisdiction, which was of three kinds: high (*haute justice*), middle (*moyenne*), and low (*basse*). The first extended to all criminal cases, and all causes personal and mixed, except *cas royaux*, *i. e.*, treason, coining, perjury, rape, and some others; and except also tithes and feudal questions. It included the appointment of a guardian to the infant vassal, and the administration of the vassal's estate dying intestate. The jurisdiction could not be separated by alienation from the fief; and the lord could only exercise it by a duly qualified judge, who, however, took the oaths to him as his lord, and whom he could dismiss at pleasure, but not with charge as for fault (*cum elogio*), unless on cause shown; and if the judge had bought his place he could not be removed without compensation. No sentence of a penal nature (*peine afflictive*) could be executed, whether capital or other, without confirmation by the Parliament, although there should be no appeal; and from all civil judgments an appeal lay to the king's judges. The middle justice (*moyenne*) was nearly the same as the high (*haute*) in civil cases; and though the criminal jurisdiction did not in general extend to capital offences, it did in some provinces, as Anjou, Touraine, and Maine. The low (*basse*) justice (sometimes called *foncière* and *censuelle*, though that properly was only one species of it) merely gave cognisance of matters relating to the rents and other dues of the lord, and of personal actions as far as sixty sous; with matters of police, as far as a fine of ten sous, and the power of arresting, but only to bind over for the exercise of the *haute justice*.

In all criminal cases, two graduates were required to sit with the lord's judge, or one graduate if the lord had two judges.* All judges originally used to receive fees, called *épices* (sweet-

* In Châtelleries the judge was called *châtelain*; in the lower justice, *maire*, or otherwise according to the custom; in the high and middle, *prévôt*, or *bailli*.

meats), from having originally been in that form. St. Louis prohibited this, and ordered a deposit to the amount of one-tenth of the matter in question to meet the expenses (*decima litium*). The *vacations* were other fees, and paid to the judge who took the preliminary proceedings, as he had, *vacqué à l'affaire*—the *épices* being paid to the judge who decided the cause. In 1669 the judges were again forbidden to receive the fees from the parties; but the clerks (*greffiers*) were to levy them, and pay them to the judges. The practice, however, of making presents to the judges was by no means disused in the later times of the monarchy; and that of parties soliciting them in person prevailed universally, nor is it extinct even since the sweeping reforms effected in the judicial, as in all other parts of the system, by the Revolution. That this practice is exceedingly hurtful to the pure administration of justice, both in its direct operation and in its consequences, seems undeniable. Although the parties have equal access to the judge, yet each sees him in his adversary's absence, and may not only make statements or offer insinuations uncontradicted, but may employ undue means of influence without actual bribery; while the private interview, intended perhaps only to show courtesy and respect, naturally tends to introduce the graver abuses for which it affords both temptation and opportunity. But the mere suspicion of these to which it unavoidably gives rise would alone suffice for the condemnation of the usage.

The *droits* were, next to his jurisdiction, the lord's most important right, and some of them pressed severely upon the vassal. They were either honorary (*honorifiques*) or profitable (*utiles*). To the former class belonged the right of burial in the church, seat in the chancel, incensing at mass, funeral service, and the like; to the latter belonged the right of pre-emption, fines on alienation, fowls and chase.

The right of pre-emption (*retrait féodal*) prevailed universally, except in Salle and Lisle, where the customs rejected it. The *retrait censuel*, or pre-emption of fiefs roturiers, was not so universal by any means.* By the *retrait* the lord

* The *rachat*, or *rémeré* (right of redemption from *redimere*) of all Crown property was always understood; and it was imprescriptible, so that no title could stand against it in any property which had ever been in the Crown. The *faculté de rachat* in private conveyances was by contract, and, unless otherwise provided, expired in thirty years.

had the right, when the vassal sold his fief (not when he exchanged, or gave, or devised it), to take it upon paying the price, with the costs of the sale; and if the land lay in different lordships, any one lord could take his portion without purchasing the rest. Some customs gave as long as a year and day for the lord to elect after the contract was exhibited to him; others only three months. That of Paris, and many other places, gave only forty days; but if there was any fraudulent concealment he had thirty years. The *retrait lignager*, or pre-emption competent to the heir of entail, was preferred to it; and the *retrait conventionnel*, or by contract, was preferred to both.

The dues paid on alienation were either the *lods et ventes*, or the *quint* and *requint*. The former were paid on the alienation, whether by sale, exchange, mortgage, or adjudication, of fiefs roturiers, to the lord (*seigneur censuel*). The latter were paid, on the alienation of *fiefs nobles*, to the lord (*seigneur féodal*). Neither were paid on alienations for life, or on leases in perpetuity, unless a sum (*grassum* or *fine*) was paid over and above the rent. The *quint* was always a fifth of the price; and the *requint*, which was only due by special custom, was a twenty-fifth, that is, a fifth of the *quint*. The *lods et ventes* varied in different places. In Anjou and Maine their amount was one-twelfth of the price, but in some districts one-sixth; in Paris one-twentieth. Properly speaking, *lods* were the payment by the buyer, and *ventes* by the seller; and in many places both paid, as in Troyes and Sens, and in some parts of Lagny, where the whole payment thus amounted to a fourth of the price; and if the lord thought the price too small, or suspected collusion, he could use his right of pre-emption (*retrait féodal*) already explained.

As roturiers could not hold a fief at all in ancient times, and their holding was only introduced by the crusades at the end of the eleventh century, so even latterly they could only hold it by paying the *droit de franc fief* to the Crown, which was due every twenty years.—The liberties of chase, and warren, and fishing, were confined to those who had seignorial rights; and in general were only found in company with jurisdiction.—But even the right of keeping pigeons, of having a dovecot (*colombier*), was quite different to the lord and the vassal. The lord might have one down to the ground (*colombier à pied*), according to the greater number of customs, and might have as many pigeons as he chose, although he possessed no land in property,

and had only seignorial rights. One dovecot (that of Château Yilain in Champagne) had 12,000 birds. Vassals and roturiers could only have dove-sheds (*volets*) on the top of a house, and a limited number of birds proportioned to their land. Those of nobles were real, those of roturiers personal property; and no one could kill the lord's birds, though found upon his own land.

The *corvées* to which vassals were subject, and roturier vassals only, were the performing any kind of country labour, with or without their wain and their cattle. These services varied by the different customs. Some services were due from all the members of the family; some at stated seasons; others at whatever time the lord chose, and originally as long as he pleased; but afterwards they became fixed, by judicial decisions, at twelve days in the year. Some were due personally, and without the party possessing any land. Beside the labour due to the lord, some portion was also due to the public in repairing roads and bridges. Nobles were universally exempt from the corvées.

It is obvious that the oppression occasioned by these feudal rights must have been general and grievous. They interfered with the whole comforts of the cultivator, and not only abridged his enjoyment of property, but impeded the use of it for his own and the country's benefit, and threw obstacles in the way of its transfer which almost kept land out of the market unless in cases of distress and ruin. The abject state of the peasantry and small landowners, and the domination of the lords, was the necessary consequence; and the bulk of the inhabitants in the country had to sustain the power of the nobles without receiving any protection from the Crown, and without offering any resistance to oppression. But the vexations occasioned by the Financial arrangements which grew out of the Sovereign's arbitrary authority were still more hard to bear, and they extended to the people of the towns as well as those of the country districts. In the latter they more than replaced in their mischiefs the feudal aids to which they succeeded—those on the marriage of the lord's daughter and knighthood of his son, his ransom when taken prisoner, and his expenses when going beyond sea, with others in different provinces, and, in some, even his expenses occasioned by the purchase of landed property. But these feudal burthens affected the vassal only; the lord as well as the vassal, the town

as well as the country, were harassed by the elaborate and universal oppression of the Financial System.

The greatest evils of the whole plan arose from having a financial government in each province apart from the military and general administration; for this multiplied indefinitely the public functionaries, and exposed the people to a host of persons who, besides, preyed upon them out of all proportion to the sums they paid into the treasury, and were suffered to practise almost uncontrolled every kind of partiality and corruption. The kingdom was divided into thirty-one financial divisions, called *Généralités* or *Intendances*, and six for the colonies, each being under the administration of an *Intendant*, who was a great officer representing the Sovereign in financial matters, as the governor or captain-general represented him in military and general affairs; but the two offices were never conjoined as with us those of lord lieutenant and custos rotulorum almost always are. The office of *Intendant* in some shape existed very early. After the commissioners (*Missi*) ceased to go their circuits, *Enquêteurs* were sent from time to time to examine all matters relating to finance, as well as all judicial and military affairs. At some periods there were one or more *Commissaires du roi* sent to examine each department severally, as that of finance alone. Henry II., in 1557, first appointed resident functionaries for these purposes, under the name of *Commissaires départis;* and they had a general superintendence. In the reign of Louis XIII. they were appointed more regularly, and were called *Intendans de militaire, justice, politique, finance*. Their oppressions in levying some new taxes having been complained of, their appointments were revoked in 1648, but soon afterwards renewed everywhere but in Brittany, where they were only finally established in 1689. The power of the *Intendant* and the financial administrator differed exceedingly in the *Pays d'états* and the other provinces, being far greater in the latter. The provinces having no states, and Brittany also, were divided into 181 districts called *élections;* each of these had an establishment of presidents, assessors, councillors, and King's advocate (*procureur du roi*). The assessors were called *élus*, because originally chosen, in a complicated manner of voting, by the inhabitants;* but afterwards they were appointed

* There were *élus* even before the time of St. Louis; but in 1270 it was ordered that thirty or forty persons in each royal or domain town should be chosen by the

by the Crown. In 1387 the number of *élus* was reduced to three, of whom one was to assess the clergy only. In the *élection* of Paris there were three *élus* and nine councillors. The *Intendant* in each election decided on the distribution of the taxes required from that district, the amount and times of the corvées, everything relating to the commissariat of the troops, and the militia ballot; and reported to the government on all that concerned the administration of justice. He was in this respect somewhat like the officers of the Eastern monarchies, who are stationed in each province, and, as we saw when treating of the Chinese and Birman empires, are known by the expressive title of the "*sovereign's ears*."

The provinces having states (*Pays d'états*), except Brittany, were free from the *élections*, and even Brittany had the advantage of the States to superintend, with the *Intendant* the distribution and levying of the taille, instead of being wholly at his mercy. Those provinces were therefore far less oppressed than the others (*pays d'élection*). The Crown had quite power enough, in convoking and proroguing the States and naming their president; but they having the right of remonstrance on the sum fixed for them by the King's council, the people were comparatively satisfied even where the remonstrance proved unavailing; and they both gave much more than the others, and gave it cheerfully. Brittany furnished a third more than Normandy, which was three times as wealthy; and Provence twice as much as Dauphiné. Those provinces, too, made good all deficiencies occasioned by any default of the collectors; they had only one paid treasurer-general for each province, the other officers being named by the States or by the municipal bodies, and serving gratuitously. The taille, too, was real, and not levied on the emoluments of the peasant who only farmed another's land. In the *pays d'élection*, the greater part by far of the kingdom,* the case was widely different. The number of officers all paid by the districts, though named by the Crown or its officer the *Intendant*, was intolerable; and of these 300 at a time would be under legal

inhabitants with the advice of the curé, and that these thirty or forty should choose twelve to set or assess the taille, and four others to levy it. These different classes and their functions were afterwards confounded together, and the appointment, like almost every other, fell into the hands of the King.

* Of the thirty-one *généralités* into which the country was divided, twenty were *pays d'élection*.

process for a whole year, some of them dying in prison, for not bringing in the tax assessed on insolvent villages. The excess of their severity on the tax-payers may be conceived to have borne some proportion to the exactions upon themselves. As much as 7000 livres have been demanded from a village whose yearly income did not exceed 4000. The peasant was afraid to show that he possessed any property for fear of the consequences; he dreaded being assessed the more. If the assessor could but spy out a rag, says one of the French writers on finance, he would make it the ground of an estimate that the income was larger than had been declared. These oppressions and their consequences resembled the worst features of the Eastern despotisms.

The uncertainty, and the room for partiality, which this system created, constituted its chief mischief, gave the greatest power of oppression to the Crown, and tended most to keep the people in subjection. The King's Council fixed yearly the sum to be paid by each *généralité*, according to the reports of the crops and other circumstances; and the *Intendant* was to raise that sum as he could. He was allowed to fix the amount of his *généralité* higher than the Council had settled it, in order to make those who could afford it pay for defaulters. Until 1765 the amount of this surplus was left to his discretion; the Council then undertook the settlement of it. The officers of each *élection* and of each parish were under the *Intendant's* influence; and the one (*élection* officers) distributed their quotas among the parishes; the other (parochial officers) distributed the quota among the parishioners, often of course, according to personal or party favour or dislike, not rarely from corrupt motives. The power of the Crown was probably more severely felt in this than in any other particular whatever, and its weight fell unavoidably more grievously upon all other classes than upon the nobles, the clergy, and the public functionaries, who were all exempt from the taille and paid the capitation tax to a comparatively small amount.* The privileged classes, moreover, were not assessed to the capitation tax according to their supposed means, but paid

* The whole capitation tax for 1761 amounted to about two millions and a half sterling, including the £400,000 *don gratuit* paid by the pays d'états as a composition. The taille, from which all the great and almost all the middle class of proprietors were exempt, amounted for the same year to nearly two millions and a quarter. The unequal pressure on the different classes is hence manifest.

a fixed sum, each according to his station, and thus escaped entirely the vexations of the scrutiny and arbitrary assessments to which the other classes were exposed by the levying of the taille, and of the capitation, which in the case of the roturier class was a poundage upon the taille.

Such was the government of France under the old monarchy—A King with power unlimited by law, and in practice absolute; a nobility amply privileged by strict constitutional right, favoured habitually by the Prince, and though always overawed, occasionally harassed by him, yet never failing to side with him against the people upon whom their privileges pressed more grievously because more immediately, than the authority of the Crown itself—all classes oppressed in their turn by their superiors, and the sufferings endured by each out of all proportion to the benefits derived by those entitled to vex and to annoy:—A system so bad, that the best dispositions on the part of those who administered it could not make its burthen tolerable to the community, but calculated at the same time to eradicate all good intentions in the rulers and privileged orders, and foster the prejudices and propensities most hurtful to their own character and most unhappy for their fellow-citizens.

The people having borne their load so long that it was supposed they never could form the wish, much less ever possess the power, to shake it off, all opportunities of removing their grievances, and gaining their goodwill by benefits conferred, were habitually neglected. What if given in time would have more than contented all parties, was withheld until nothing that might be safely offered could satisfy any; and the whole system which a timely reformation would have sustained and improved into a solid scheme of useful polity, was suddenly swept away—King and Nobles—Feudal rights and Financial exactions—Clerical power and Judicial institutions—all the good with all the evil that had been accumulating for fourteen centuries: A sad spectacle to the observer, but a useful lesson to those who from fear of any change resist all improvement, and deem it safer to encounter the hazard of revolution, than submit to the necessity of reform.

NOTE TO CHAPTERS XI., XII., AND XIII.

MANY difficulties present themselves to those who would study in detail the government of France under the old establishment, the *ancien regime*. There are no doubt various works which treat of the laws and customs, many valuable histories and historical dissertations, much information upon the political system scattered over general treatises of government, legislation and finance, and a mass of controversial discussion chiefly during the earlier periods of the Revolution, oppressive by its bulk, unmanageable from the necessary want of all method, and perplexing by the violence, indeed by the unscrupulous assertions and contradictions of the adverse partisans; but we cannot point to any quarter where a full and trustworthy account may be obtained of the government both in the structure and in the functions of its component parts—an account presenting all the facts descriptively, and not merely referring to them by way of allusion and in their connexion with theoretical remarks—an account, in short, of a didactic character, and which does not assume that the reader is already acquainted with the greater part of the details. The only real didactic works are those on the laws and customs; and this, we need scarcely observe, is extremely difficult, indeed dangerous ground for foreigners to venture upon. Nay, (what increases the difficulty very greatly, and cuts off almost all chance of assistance,) the subject is now nearly as new to the French as to ourselves, because the entire change effected by the Revolution having left nothing, or next to nothing of the old system standing, has swept away the old learning with it, so that hardly any one can be supposed to have studied those matters who has attained man's estate within the last half century, and the very few lawyers of the former age who survive can have had no practical use of their ancient lore during that long portion of their lives. It is not likely, then, that the subjects treated of in this chapter should be much more familiar to the French than they are to the English reader; and no opportunity has been afforded of having these pages revised by practical men, in order to correct any error which may have so easily crept into them from the books consulted.

Among these the chief reliance has been placed upon the numerous articles and treatises in the *Encyclopédie* (Edition 1788) on French and Feudal law, and on the various matters connected with the history and political institutions of France, and upon the twenty-one volumes of M. Sismondi's invaluable work (which bring the history down to the edict of Nantes at the close of the sixteenth century), beside the works which have been cited in the course of these three chapters. In referring to these, however, it is necessary to mention one more particularly—that of M. Montlosier, in order that the reader may not be led to expect from it anything like a full history of the monarchy. Although a book of unquestionable merit, much to be depended on whenever it professes to state facts, and the production of a well-informed man, it is rather a dissertation than a history, and rarely enters into details, but rather supposes the reader to be already acquainted with the subject than endeavours to instruct him. Accordingly, excepting in the few instances in which this work has been referred to, no assistance has been derived from it in preparing these chapters. Much more unsatisfactory in every respect are the Discourses of M. Lacroix, from whom, as a professor of public law, and one who lived under the old monarchy, so much might reasonably have been expected, devoting as he does two of his five volumes to the French monarchy; but he treats the subject in a manner so vague and declamatory that the student can derive no assistance from this portion of the book, and even his general remarks are for the most part not upon the topics which those who desire information respecting the frame and the working of the old system would wish to see discussed. The work of Merlin (*Repertoire*) and of Denisart (*Collection*), edition 1775, may be conveniently consulted on points of feudal law.

CHAPTER XIV.

THE GERMANIC EMPIRE.

Dissolution of Charlemagne's Empire—German Princes—Election—Interregnum—Manuary Right—Origin of the Empire—Federal Government—Its Origin—Federal Leagues of Italy—Of Greece; Bœotia; Achæa; Elis; Arcadia;—Of the Asiatic Colonies—Of the Asiatics—Imperfect Leagues; Thessalian; Œtean—Advantages and Disadvantages of Federal Government—Difference of the Federal and Representative Principles—Balance of Power—Amphictyonic Council—Argolitan Council—Four Foundations of the Germanic Constitution—Its Republican Nature—Capitulations—Conclusum; Recess—Electors—Great Officers—Diet; its Constitution—Colleges; Benches; Votes—Imperial Commissary; Co-commissary—Course of Proceeding at the Diet—Chamber of Wetzlar—Aulic Council—Circles—Contingent—Mercenaries—Leagues of the Rhine and Hanse Towns—Benefits derived from the Germanic Body—Origin of Public Law—Its Objects and Provisions—Popular Government favourable to them—Difference of Public and Municipal Law—Balance of Power—Dissolution of the Empire—Confederation of the Rhine—Its Military Character—Napoleon's Power—Germanic Confederation—Its Structure—Functions, Civil and Military—Breach of Faith with the People—Edicts on Popular Rights and the Press—Adoption of the Principles of the Holy Alliance.

We have already seen that in the greater part of the German districts or nations possession had repeatedly changed hands, and that the invaders of the Roman provinces who came from Germany were themselves expelled from their territories, or, as it were, pushed onwards by barbarians from the North and the East, who ravaged the immense countries situated between the Danube and the Baltic, the Rhine and the confines of Russia and Tartary. Wherever any tribe settled in Germany, something of the same arrangement took place which we have seen in the Roman provinces, with respect to the division of lands, and the annexing military service as a condition to the grant of those parts of his own share which each chief allotted to inferiors or followers. But the system was at first imperfectly established in those countries, and was afterwards introduced with greater regularity from the adjoining states founded by the Franks and Burgundians beyond the Rhine. At all events, when the tribes under Charlemagne conquered Germany, the foundations of the feudal system were universally laid. Previous to that important invasion there were

six states or principalities into which the whole country was divided, and the Chiefs or Princes of these governed under the name of Dukes, with that limited and mixed authority which alone was possessed by the leaders of the barbarous nations. Charlemagne established a sovereignty over the whole by the title of Emperor, and made it hereditary in his family. Had his son who succeeded him possessed his talents for command, the two dominions of France and Germany might have been retained in union. But they were separated in the second generation, and the Imperial power over Germany which he had established continued in his descendants, until the line of his grandson Louis the Germanic failed in 911. It then became elective—that is, the Counts, whom Charlemagne had established in the place of the Dukes conquered by him, retained the sovereignty, each over his own state, and chose one of their number to have a kind of unsubstantial and titular dominion over the others as Emperor This title continued sometimes in one, sometimes in another of their families, chosen by the rest, who were thence called *electors*, until the death of Frederick II. in 1250, when a long interval called the *interregnum* took place, during which they could not agree in their choice, and for two-and-twenty years the greatest confusion and most desolating wars prevailed. The Feudal system was now in its full operation, and Germany like the rest of Europe was a prey to the sanguinary practice of private war, called there the *Manuary right*, and carried on with greater regularity, that is under more fixed rules, than anywhere else, but on this account, perhaps, only the more formidable to the progress of society. At length in the year 1273 the choice fell upon Rodolph of Hapsburg, the founder of the House of Austria, in which the imperial dignity continued with scarce any interruption, until it was abolished during the reign of the late Emperor in 1806.

It appears then that this combination of Princes under one head, each retaining his sovereignty over his own states, but each related to the others as fellow-subjects of a superior Prince, was originally not very different from the constitution of every Feudal Monarchy, except in the circumstance of the supremacy being truly elective, during all the period which elapsed after the beginning of the 10th century, when Charlemagne's descendants still had the sovereignty in Germany. Thus Hugh Capet, one

of the great Feudatories or Princes of France, obtained, as we have seen, the sovereignty, scarcely more than nominal, of the whole country, by conquest and intrigue combined, and was, in his own Duchy and the portions of other dominions which he added to it, really a Sovereign, while his power over the other states was very feeble, and each Prince exercised real dominion within his own territory. The German union in the same age differed not materially from this except in the principle of election. But from thence, and from the more equally matched power of the different Princes, flowed a very great difference in after-times; for each retained his independence instead of falling under the entire dominion of the superior Lord; and Germany, instead of becoming like France one state, governed by a single head, though with a powerful territorial nobility, continued to be a collection of independent states, each of which formed a monarchy within itself, while it was the member of a league or confederation under a head possessed of no great power, and the whole were regulated by certain laws in their relations to each other and to the superior head. In a word it formed a Federal Government or union of monarchies, as the Provinces of Holland, and, in more modern times, the States of America, formed a union of republics.

There are thus two things to be considered in the German states—the constitution of each state in itself, as Austria, Bavaria, Saxony, Brandenburg, (now part of Prussia,)—and the Federal constitution or government of the whole empire as one body, of which the subjects are the several states themselves. At present we shall confine our attention to the Federal constitution, which, although now extinct, is yet connected so intimately with all the modern history of Europe, that a knowledge of its principles is essential to the student of political and historical subjects; and it has moreover been succeeded by another Federal government, formed upon somewhat similar principles. Before however we proceed to examine this system of polity, it is expedient to step aside in order to consider that kind of government a little more at large, and to survey the accounts which history has preserved of it in ancient times.

There can be no doubt that a Federal Union, instead of indicating any refinement in political skill and knowledge, is rather the growth of a rude age, and of the incapacity of men to frame institutions which can maintain the authority of government, over

an extensive territory or a numerous people. The occasional union of several barbarous tribes in pursuit of some common object either of attack or defence, each tribe acting under its several chiefs, would naturally produce a disposition to combined operations; and the repetition of such proceedings would lead to an arrangement for always acting together. This in most cases would be attended with the preponderance of the more able chief, or of the more powerful tribe; and when the attempt at conquering the others failed, or when only an incomplete subjugation could be effected, a league would be formed under a common head, each tribe obeying its own chief in the interior management of its affairs, while the different chiefs obeyed the common head in the conduct of their joint concerns with respect to strange tribes, and exercised a discipline or control over one another, so as to prevent gross violation of the independence of any one. For it is evident that, as all were resolved to be free—as both the people of each tribe were determined not to be subject to the people of any other, and the prince of each wished to be free from the dominion of any other prince—all would perceive the danger of allowing any one to overcome another, and thereby obtain a preponderating force which might be turned against the rest. Hence, the policy which has been thought so great a refinement, that of the Balance of Power, is in truth a maxim of as obvious a kind as can be conceived, and must have formed the main spring of all the unions of savage tribes wherever several of such societies leagued together under one head. That such unions must have prevailed universally is clear; for the rude laws, though they might be strong enough to maintain order in a small community, could never have sufficient force to bind large societies together; and hence, if by accident a considerable union of tribes was ever effected through the talents or fortune of a particular chief, it was sure to fall in pieces, and generally to be followed by the formation of a Federal League.

It seems unquestionable that all Italy was originally inhabited by tribes combined in leagues of this kind; for in the earliest periods of the Roman history we hear of nations like the Samnites sending a force of 80,000 fighting men into the field—an operation far above the power of such a rude state without the aid of the federal principle. The conquests of Rome however having the effect of uniting all those nations under her central power,

and the colonies planted by her in every part of her conquests maintaining the subjection of the remoter dependencies, the federal system was extinguished at a very early period of history, and we have no authentic record of the principles upon which it was established, still less of its details. It is quite otherwise with the Greek states; many of these continued to the latest period under the federal system, and applied the lights of increasing civilization to its improvement. Accordingly it is in the Grecian history that we can best find examples of this kind of polity.

The Greek states, like all others, were originally governed by kings or chiefs. But with the exception of Lacedemon and the Asiatic-Greek colony of Carthage, where the kings were elective though for life, all those states, in very early times, overturned the royal authority and established either aristocratic or republican governments. Each city with the territory in its neighbourhood formed one of these states; and almost all of them were formed into different federal systems. In the forms of these there was considerable variety, but one principle prevailed in them all. The internal affairs of each state were regulated by its own government, and the affairs of the league, both as to foreign states and as to the disputes of its own states among themselves, were transacted at a fixed general or yearly meeting of deputies in some central place.

The Bœotian league was one of the most remarkable and best arranged, if indeed it may not rather be considered as a regular municipal government—for at Thebes, the chief city, an assembly of deputies from the other cities appears to have been always sitting; four councils prepared the measures to be laid before it, and eleven executive magistrates were annually chosen with extensive powers. The preponderance of Thebes was so great over the other cities that it ruled the deliberations of the assembly, and destroyed two of them for quitting the league.

The Achæan league was perhaps the most ancient of any, and consisted of twelve states or cities, each having several subordinate towns within its district. The congress was held twice a-year, originally at Ægium, afterwards at Corinth. This assembly named executive magistrates, who had the power of calling an extraordinary meeting in cases of war or negotiation. The chief of these was the *Strategos* or commander-in-chief, who held his office for a year, and could only be re-elected after a year's interval: the

Hipparchos, or master of the horse, was next in rank. The congress only lasted for three days. The equality and independence of the members of this league never were disturbed by any usurpation of one over the others, and each city had likewise a purely democratic government. There remain coins of several states of the league, and also coins of the league itself—a plain indication both of the sovereignty exercised by the several members, and of the sovereignty exercised by the whole federacy. It is uncertain how the states were represented in the congress; most probably by the wealthier citizens attending in person: nothing like elective representation appears to have been known.

The league of Elis consisted of eight states, but the influence of the chief city, Elis, reduced the others to subjection, and the government fell into the hands of a senate of ninety, who held their offices for life, and filled up the vacancies in their body. An oligarchy upon the self-elective principle was thus established.

Arcadia, like the other countries of Greece, was originally divided into kingdoms, and afterwards each of these became a republic, the whole being united in one federal union, of which the affairs were carried on at an assembly or congress of deputies, at the chief cities of Mantinea and Tegea. This was one of the most powerful of the leagues, for its slave population alone amounted to 300,000. Its force was, however, weakened by quarrels between the different states of the union, which the congress does not appear always to have been strong enough to prevent. When by the advice and aid of Epaminondas, the celebrated Theban general, they built Megalopolis in order to protect the smaller towns of the league, Plato was instructed to prepare a code of laws for the inhabitants, but he declined attempting it upon learning that the people would not admit the principle of equality of property.

The three Greek colonies in Asia Minor, the Æolian, Ionian, and Dorian, occupied a narrow stripe of territory upon the coast, and each colony formed a federal union upon the principle of those known in the mother country. The Æolic union had eleven (originally twelve) cities, the Ionian twelve, and the Dorian five, of which three were in the island of Rhodes. Each city sent one deputy to these Congresses, and the assembly was regularly held once a-year.

The Asiatics, although certainly their governments were al-

most universally despotic and established over extensive territories as far back as authentic history reaches, had, probably from their intercourse with the Greek colonies, some republican constitutions, and that of Lycia is the most remarkable. It is frequently described as a league of twenty-three cities; and certainly they were in some kind of intimate union, and their affairs were managed by a congress or council, at which each had votes in proportion to its importance, varying from one to three, and each paid towards the common expenditure in the like proportion. But as the council also elected the magistrates of the towns, we cannot term this strictly speaking a federal union at all, although Montesquieu has called it "the model of an excellent federal government."

We may further observe that some very imperfect confederacies of this kind were formed, as well as those which we have been describing. Thus in the Thessalian league, its members pretended to be bound only by those resolutions in which they had themselves concurred. Nay, the same element of disorder prevailed in the several states belonging to the union. The Œtean state was divided into fourteen districts, of which any one might refuse to join in a war undertaken by consent of all the rest. It seems difficult to conceive any government more feeble, rude, and inartificial than this; and yet such was its state even at the most refined period of the Grecian history. It has been also doubted whether the Asiatic colonies had not a like flaw in the constitution of their confederacy. But we must suppose that the majority did legally bind the whole, and that the resistance of the minority was a sort of rebellion.

The advantages of these leagues are obvious. Their effects may be regarded in a threefold light, as maintaining the general independence of the body against other powers by a vigorous and beneficial direction of the forces of each to a common object —as maintaining the independence of each state against any other by uniting the whole against an aggressor—and as tending to promote improvement internally in the different communities, by the constant intercourse which the assemblies must have kept up and the consequent interchange of lights and helps. Such was their first and immediate tendency: that they did not always succeed in preventing usurpation, nay, that on the contrary the fate of almost all of them was to witness the final preponderance

of some one powerful member, argues nothing against the advantages of unions which for so many years preserved the independence of even the weakest communities. It only shows that the great step had not yet been made in government—the incorporation of all the parts of a state into one, and the government of that one by representatives from each part. The ancient representation of which we have been speaking, had not the real quality which distinguishes that of modern times. There were deputies, but they only appeared and acted as envoys, as ambassadors of independent nations. With us the deputies are chosen to guard the interests of each portion of one community, but only as a portion of that whole; and their paramount duty is to consult for the interests of the whole. In proportion as they guide themselves by local views they recede from the true nature of representatives and approach to the federal plan, the ultimate tendency of which must always be the subjugation of some portion by the rest.

We are to regard the Greek leagues not as single nations divided into parts, but as collections of different states, each disinclined towards the others and valuing itself upon being a separate and independent community. If all could at once have been melted into one nation, doubtless the advantage would have been unspeakably greater than any which a federal constitution could bestow; but this was as impossible as to consolidate into one state a number of nations wholly foreign to each other; and the federal scheme had a salutary tendency to retard the course of oppression and to prevent wars among the members of each league. The habit of combining in operations of a warlike nature had a like tendency to prevent one league from being overpowered by other nations; and we accordingly find among the writings and the speeches of the Greek orators principles continually appealed to the very same with our modern maxims touching the balance of power.—"Let us help such a state because it is weak, and let us help it though our enemy, because a more powerful state which now pretends to be our friend is about to swallow it up, and then we shall have a still more formidable force to contend with."—Such is the kind of advice given by the great statesmen of those times to their countrymen; and it is the very same with the course which in our own days the most refined policy suggests. The doctrine of the

Balance of Power, as we have already observed, has often been abused; often led to premature hostilities; often been made by wicked rulers the pretext for gratifying ambitious propensities, hurrying their country into needless and therefore criminal wars; and generally it has a tendency to encourage in statesmen a meddling, intriguing, refining, over-anxious, over-active habit; but no one can doubt that it may dictate a wise and prudent course of conduct; and that, where the aggression really exists and the danger to ourselves is imminent, the duty of self-preservation combines with the sense of justice to sanction the adoption of such a cautious, circumspect, provident policy.

The Greeks however were not content with deriving these maxims from their familiar acquaintance with the federal system. They more than once attempted a very great refinement—the establishment of a congress of deputies from nations wholly independent. The most celebrated of those congresses was the Amphictyonic Council or League, so called from one of the early kings in the north of Greece supposed to have been its founder. It consisted of twenty-four votes, originally divided equally among the twelve nations who composed the League; but afterwards, when others were admitted, some came to have one and others two voices; and at all times, whatever number of deputies each sent, the votes remained the same. This council met twice a-year—at Delphi in spring and at Anthela in autumn. The avowed object of the council was to prevent war and oppression, by redressing all the grievances of its members and punishing all infractions of the law of nations. Any of the League being accused and found guilty was called upon to make reparation,—or upon being suspected of attempting any aggression was warned to desist; and if in either case he was contumacious, the troops of the other Amphictyonic states were called out to enforce obedience. Although this council continued for many ages to meet, and sometimes to act, we need hardly observe that the practical efficacy of its proceedings fell very far short of the admirable theory, and that its decrees were often disregarded. Nevertheless it may have prevented much evil which, but for the knowledge of such an institution, would probably have arisen. The union formed by the states of Argolis with the same view was in every respect less important; it was less considerable in point of extent and less useful in practical effect. But this may

at least be said of both these attempts to enforce the duties of national justice and preserve the general peace—they were made with the sincere desire of accomplishing the great objects which were professed, not used as a cloak for plans of war and spoliation and slavery. The Holy Alliance formed twenty-five years ago, and not yet forgotten, by some of the continental sovereigns, under lavish professions of regard for justice and care for peace, was a conspiracy against the progress of liberty all over the world; and it was a fortunate circumstance that the jealousy of the people in this country, awakened betimes, prevented their rulers from engaging in any proceedings which could give even an apparent countenance to such a system. There was no great risk of any British statesman ever desiring really to bear a part in the confederacy. We shall presently see that whatever good has been effected by the adoption of the federal principle in the constitution of the German empire flows from the same source whence the Greek states derived the advantages we have been describing, and that in some measure it even realised the prospects which those had in view who founded the Amphictyonic and Argolitan unions.

We now proceed with the account of the Germanic constitution. It rested upon four grounds—four decrees, resolutions, or treaties. The *first* of these is called the *Golden Bull*, issued in the reign of the Emperor Charles IV. in the year 1356; and it regulates the manner of electing the Emperor, as well as the ceremony of his coronation; it fixes also the number of electors at seven, and regulates their rights.* The *second* fundamental law is the *Pax Publica* or decree of general peace issued by the assembled states at Worms in 1495, for putting an end to the Manuary right, or right of private war, and restraining the abuses of the feudal power by the barons. It also provides that whoever violates the public federal law of the empire shall be placed under the ban—that is, exposed to the combined hostility of the rest of the states acting at the requisition of the Emperor. The *third* ground is the *Pax Religionis* or Religious Peace issued by the diet in 1555 in consequence of the dissensions which the Reformation had occasioned. The diet held at Spires in 1529 had forbidden Luther's doctrine to be received in any

* The original of this celebrated Bull is said to be still preserved at Frankfort, with the golden seal (*bulla*) attached to it; whence its name comes.

of the states; and against this decree the Elector of Saxony and four other princes who had embraced Luther's opinions protested, appealing to a general council: hence the name of *Protestants*, which has ever since been applied to the reformed party. They presented to the diet held at Augsburg in 1530 their confession of faith; and after much dispute and even persecution, there issued in 1555 a decree establishing general toleration to all who either should conform to the Catholic religion or to the *Confession of Augsburg*, and regulating ecclesiastical rights in general. The *fourth* foundation of the Germanic constitution was the *Treaty of Westphalia* (or of Munster), which in 1648 put an end to the thirty years' war between the Catholic and Protestant Princes of the empire. This famous treaty regulates the titles to dignities and benefices which may become vacant by the party changing his religion; establishes the right of the electors, princes, and states of the empire to refuse or give their consent to all laws of the federal body; prohibits the declaration of peace or war on the part of the empire —the formation of alliances—the raising of taxes or of troops—the erection of fortresses—without consent of the same powers in diet assembled; and recognises the rights of those free towns called the *Imperial towns*, which had obtained an independent state during the troubles of the interregnum, and which claimed, and were now fully allowed, a place in the Diet or States General or Parliament of the empire. It was further declared that no party could be put under the ban by the Emperor without consent of the Electors; and in the reign of Charles VI. in 1742 this veto was extended to the other component parts of the diet. It is clear therefore that the federal constitution of Germany was as limited and as free as could well be desired. The federal nation —the nation which consisted of kings and princes and imperial cities—had taken ample security against their chief, the Emperor, exercising any absolute power over them; without the consent of their body he could do nothing; and as he had no direct power over that body, each member being independent of him and of all the rest, the Germanic government must be regarded as an association or league in which the members governed themselves, only agreeing that, for the sake of acting in concert, the majority should bind the minority, and the decrees of the whole be executed by the chief. It was in every sense of the

word a republic of kings; and its structure strongly proves the truth of the maxim that princes are true levellers—real republicans—among themselves.

But the general restraints upon the Imperial power which we have been observing and which for so many ages constituted the fundamental laws of the Empire, did not satisfy the select multitude of crowned subjects over which the chief of the Germanic body rules. Each Emperor, at his election, was made to sign an engagement termed a *capitulation*—by which he bound himself not only to govern according to the laws, but to govern according to such rules and maxims as at each election were prescribed. The electors always maintained with great jealousy this power of exacting conditions, and resisted the attempts of the other Princes to establish by the authority of the Diet a general code of rules for the guidance of the Emperor, instead of having a new capitulation each time he was elected. The power indeed was incident to the right of election, which they have had since the middle of the fourteenth century (1357), and grew out of it, upon the principle that they who have a right to give have also a right to dispose of the gift in the way they think fit, and upon the conditions that they may please to annex.*

Beside the fundamental laws and the capitulations, the constitution of the Empire was contained in the *Recesses*† or collections of Decrees of the Diet, which was the general legislative body of the whole Federal union; and to these may be added the *ordinances* of the Imperial Chamber, formerly of Spires, afterwards of Wetzlar, and the Aulic Council of Vienna, which were laws given to those high judicial bodies by the Emperor and the Empire to regulate their proceedings in the Imperial causes whereof they had cognizance.

The Electors were originally seven; Margrave of Branden-

* Before the Treaty of Westphalia no perpetual capitulation was ever framed, in all probability, so as to be propounded; none certainly was ever adopted; and the one then drawn up remained without any attempt to enact it for half a century and more. At the end of the seventeenth century a provision binding the Emperor to obtain a perpetual capitulation was ordered by the Diet to be inserted in the capitulation.—The King of the Romans was called upon to sign a capitulation, as well as the Emperor. Although from the nature of the transaction it may seem as if the word (*capitulation*) were used in its borrowed sense of "a surrender upon conditions," there can be no doubt that it only denotes the enumeration of particulars under heads.

† A decree of the Diet was called a *conclusum*; the whole decrees made at any Diet, and promulgated in a body upon the close of the Diet, were called a *Recess*. This was before the Diet had become permanent in 1663.

burg (King of Prussia in after-times), Duke of Saxony, Count Palatine, King of Bohemia, and three ecclesiastical Princes, the Archbishops of Mentz, Cologne, and Treves. The Duke of Bavaria during the thirty years' war was added, and the treaty of Westphalia restored the electorate of the Count Palatine, which Bavaria had usurped, leaving Bavaria also an electorate; and in 1708 Hanover was added; but Bavaria was afterwards extinguished by union with the Palatinate; and Baden and Wirtemburg were added since the French Revolution. The Electors chose the Emperors, generally at Frankfort, by a majority of voices, each either attending personally or voting by proxy. They then made him sign the capitulation, and he was crowned by the Elector of Cologne. During the Emperor's life they could choose his successor, who was called *King of the Romans;* and he swore to make no attempt at obtaining any share of power during the Emperor's life. If the Imperial throne was vacant the powers of Emperor were exercised by two vicars—the Elector of Saxony and Elector Palatine—one for the southern and eastern of the nine circles into which the empire was divided, the other for the northern and western.

The dignity or rank of Empress might be conferred on a female; but she had no share in the government of the empire. The Electors filled the places of the great officers of the empire: one (Elector of Bavaria) was arch-carver, and presented the dishes to the Emperor at the coronation banquet; another (Saxony) arch-marshal, and bore the sword of state; a third (Brandenburg) arch-chamberlain, and presented a basin of water to wash the Emperor's hands; a fourth (Bohemia) was arch-cupbearer; while our King, as Elector of Hanover, disputed with Bavaria the honour of being arch-treasurer. These all waited upon the Emperor at dinner on the day of his coronation, like pages or even menial servants.

The States which assembled at the Diet of the empire consisted of three orders, chambers, or colleges—those of the Electors, of the Princes, and of the Free Imperial towns. We have already spoken of the Electors. The Princes were either ecclesiastical or secular; the former class consisted of twenty—three prince-bishops, four prince-abbots, and two prince-prebendaries, who received from the Emperor temporal and feudal investiture of their sees when they received spiritual authority by consecration, and they exercised territorial sovereignty accord-

ingly as well as clerical authority. Each prince-bishop, abbot, and prebendary had a vote. The other ecclesiastical members of the College of Princes were the prelates, abbots, and abbesses, who had no title of prince, and who composed two bodies, bancs, or benches, the Rhenish and the Suabian, each bench having but one vote. The secular princes comprehended not only princes so called, each of whom had a vote, but counts of the empire and barons, formed into four benches, those of Franconia, Suabia, Westphalia, Wetteravia, each bench having one vote. Of the Princes there were 45 votes of Princes of the Ancient Houses which had seats at and since the Diet of 1582; 13 introduced subsequently; and one family, becoming possessed of several states which had votes, acquired all their votes. The right of the counts and barons to sit depended on their possessions or seignories; and to be admitted into the college a certain rate of tax, and the consent both of the Emperor and the Electors and college and bench, were necessary. When once admitted the right of sitting was hereditary, according to the rules of intermarriage among the noble and sovereign houses of Germany. No titular noble could have a seat or vote. The president of the College of Princes was the Archbishop of Salzburg and the Archduke of Austria, alternately.

The third college was that of the Free Imperial Towns, which obtained their charters and privileges in the same way with those of France—by the favour of the Crown, which desired their assistance against the feudal lords and princes. During the interregnum the greater number of those rights were established; and they had in Germany retained them as independent states against the Imperial power, instead of falling under the dominion of the Crown, as in England and France. Their sovereignty was fully recognised by the Treaty of Westphalia. Each town had within itself a senate—in some more aristocratic than in others, according as its members were more taken from the nobility or from the citizens. Each town sent a deputy to the Diet, and the whole of these deputies formed two benches—one of the Rhine, representing fifteen towns; one of Suabia, representing thirty-seven—each town having one voice. The deputy of the town where the Diet was held presided in the College of Towns.

The president of the whole Diet was the Elector Archbishop of Mentz, who likewise presided over the College of Electors.

Since the middle of the fifteenth century the Emperor no longer attended in person, but was represented by one of the princes, who was called his *commissary*, and who had a lawyer, called a *co-commissary*, to assist him. The deputies of Electors and other sovereign princes acted at the Diet both as their proxies in voting and as their envoys in negotiating; the deputies of the towns acted only as their proxies to vote.

The Emperor assembled the Diet in one of the towns of the empire; he issued his letters patent to each state separately. The last summons was in 1663, and the Diet then assembled at Ratisbon sat ever since, until the final extinction of the Germanic constitution in 1806. Upon all matters of a secular kind the majority of votes decided; but upon religious questions the Protestant and Catholic states separated into two bodies, and the decision assumed the form of endless negotiation, there being no umpire except the fear of having recourse to arms. Hence a permanent separation of the States into two parts, the Catholic and the Protestant.* But the most singular part of the proceeding was the exclusion of the Free Towns from all voice in the ultimate determination of any question. The College of Towns, like colleges of Electors and Princes, deliberated within itself; but when the decision was to be taken the Princes and Electors joined in one chamber, and resolved either to accept or reject the measure, which, whether the College of Towns concurred or no in their resolution, was either rejected or presented for the Emperor's approval. His approval gave it the force of law, and without that approval the operation was wholly suspended. When a law was passed it was published by the Emperor, recorded by the Elector of Mentz, and committed to all the courts of the Empire to be followed implicitly. But the Diet also decided upon questions of peace and war and of foreign negotiation—the Emperor's power of acting with the advice of the Electoral College alone being confined to cases of sudden and great emergency.

The *Imperial Chamber* of Westphalia, originally of Worms and afterwards of Spires till 1696, was a high court of appeal from all those parts of the empire where the sovereign had not (as the electors had) the right of appellate jurisdiction. It decided accord-

* It was a provision of the Treaty of Westphalia which occasioned this by declaring that in questions of religion the majority of votes should not bind the minority; in other words, that the Federacy should cease. The head of the Protestant (or Evangelical) party was the Elector of Saxony, though a Catholic.

ing to the laws of the Empire, the civil or Roman law, and the customs or laws of the particular state where the original judgment was pronounced. This body was independent of the Emperor, being named by him with the Diet's consent and not interrupted by his death. It consisted of princes and lawyers, seventeen in number. The only original jurisdiction exercised by the chamber was in disputes between different independent states of the empire when those could not be determined by the arbitrators called *Austregues*, who were to be in the first instance chosen by the parties from among states of their own rank.

The *Aulic Council* was entirely named by the Emperor, and his death interrupted its sittings. It consisted of two benches—one of nobles, the other of learned men or lawyers—and its jurisdiction in appeals was concurrent with that of the Imperial Chamber; and although the Emperor's order was required to give its judgments force, he was by his capitulation bound to decide with the President, and in his presence and that of other Councillors, including the Vice-Chancellor of the Empire.

In deciding, as the Imperial Chamber of Wetzlar did, between conflicting states, a force was wanting to compel submission, and this was supplied by the division of the Empire into Circles, each of which had its assembly of States, where titular as well as territorial nobles sat—its director, who convoked those States—and its military force, at the disposal of the States and of the Empire. The States of each Circle were bound to aid the Diet and its executive officer, the Emperor, in enforcing the laws made by it and the decisions pronounced by the Chamber. The Circles when first formed in 1501 were six, excluding the Electorates and the Austrian dominions: four were added in 1512, including the whole Empire and Burgundy, which comprehended the Netherlands; and on their throwing off the Spanish yoke, Burgundy ceased to form a circle. The standing army of the circles was required to be 30,000 foot and 10,000 horse; but in war this force was increased, and in Marlborough's time it amounted to 120,000 men: these troops were under two Marshals—a Catholic and a Protestant. But the different states of the Empire furnished a small proportion only of their several military forces in what was termed their *contingent* to the armies of the Empire. Thus the Prince or Landgrave of Hesse, who perhaps sent twenty or thirty men indifferently armed, kept a completely equipped force of 20,000 men ready for service, which he let out for hire to other sovereigns. England purchased many thousands

of these wretched men in the American war to crush the liberties of her own subjects, and employed then the white slave-dealer in Germany, as she so long continued to employ the black slave-dealer upon the African coast. The revenues of the Empire were formerly considerable, amounting to nearly a million sterling, at a time when that sum was equal to three or four times as much as now. It was the custom for the Emperor upon his election to give up to the Empire all his family estates within its limits. The Imperial domain thus became extensive, and comprised lands in every part of the Empire. But the extravagant alienations of these by successive princes, and the further injury sustained by the grant of various exemptions, afterwards reduced the Imperial revenue to a trifle hardly worth the expense of collecting.

It remains that we mention the Leagues of the Free Towns. They were formed against the feudal lords and the sovereign Princes by whose territories the towns were surrounded, and they had for their object to secure their commerce from exactions of toll, and from still more direct acts of violence and of plunder. Mentz, Cologne, Strasburg, and above sixty towns with three ecclesiastical electors at their head, formed in the thirteenth century the League or Confederation of the Rhine against the robberies of the inferior nobility. The Confederation at one time engaged to maintain 600 armed vessels on the Rhine. The Hanseatic league began in a similar confederacy during the long *interregnum*, and to protect trade against the disorders of the times and the attacks of neighbouring Princes. At one time there were eighty towns included in this body in every part of Europe, as far as Novogorod; latterly only three—Hamburg, Lubeck, and Bremen.

When we survey the constitution of the Germanic Empire, which continued such as we have described it to the begining of the nineteenth century, it is impossible to deny that it was a scheme of polity calculated to produce very beneficial effects, whether we regard its influence upon the tranquillity of the great portion of Europe subject to its control, or the internal improvement of each of the states that composed it. The benefits derived from the ancient federal unions, in preventing aggression and aiding mutually in case of danger, were in a superior degree obtained from the German confederacy. It has been hastily assumed by Montesquieu and others that no states but those of a republican constitution are adapted to federal government; and there can be

no doubt that in one respect these are better suited to such a plan. The equality which is required among the representatives in congress and which is the essence of the system, with the jealousy of all encroachment resulting from it, fall better in with republican than with monarchical feelings. Perhaps the very idea of representation may be thought rather of a democratic cast than suited to notions of royalty; and yet the federal representation is only that which exists as often as any one sovereign or state sends an ambassador to another. But if a federation is once established among Princes whose power is absolute in their own dominions, it is quite clear that the system must work far better than where each deputy represents not himself or a single sovereign, but a senate or a popular assembly. The congress will have far more power over its members if these are not responsible to the body of the people in their respective states. There will be fewer instances of contumacy against the decrees of the body; and the aggressions of one against any of the others are more likely to be summarily punished where the rest of the members have only to fall upon a single ruler, than where they must exact vengeance from a whole nation. The frequent instances which we meet with in the Greek republics of particular states proving rebellious to the will of the congress, and which have even made it doubtful whether or not the decrees in some of these, as the Asiatic colonies, were binding upon dissidents, strongly illustrate this inferiority in republican confederacies. In Germany before the rise of the Prussian power, which gave the first blow to the federal constitution, the instances were rare of any contumacy. The system may be justly said to have secured the independent existence of many weak states for centuries, and to have prevented the wars which would necessarily have arisen from mutual aggressions among the members of the league.

This must be admitted to be an inestimable blessing conferred by any system of polity. But one if possible still more important, because of more universal operation, and which has survived the system itself, is the establishment of a Code of Public and International Law, which the imperfect notions of national rights entertained among the ancients had but darkly contemplated, and left hardly any traces of to after-times.

When a number of states independent of each other voluntarily unite in a regular and permanent body, or having, as was

the case in Germany, been accidentally united under one head, continue this union after severally attaining their independence, they form as it were a new state or nation of which the members are themselves states or nations. This implies of itself and without more, that they all sacrifice a portion of their natural rights in order to gain some superior benefit, just as men by living in society sacrifice part of their natural liberty for the sake of greater advantages; and the grounds of the sacrifice—the consideration obtained for the surrender—is in both cases the same—security and protection against aggression. This benefit is likewise obtained in the same way in both kinds of association, namely, by the whole submitting to a system of rules, and, as the foundation of the compact, agreeing to let the will of the majority bind the minority. Thus, injuries to the property or persons of individuals are prevented in a community composed of individuals, by the force of the whole—that is of the state—being directed to protect each, and to punish the wrong doer. So in like manner the weak state in a confederacy, or community composed of nations, is protected against the strong by the force of the whole league being directed against the aggressor. This whole system therefore proceeds upon the assumption that, with respect to nations, might or power is something different from right; that nations have all of them rights as well as individuals; that a small and weak state has as good a right to be preserved in independence and full sovereignty as a great and powerful one; and it proceeds upon a principle equally clear with respect to the interest of nations, and which may indeed be taken as the foundation of the whole—that it is best for all, great as well as little, to respect each other's independence, and to join in protecting from the invasion of a powerful aggressor any one attacked. This is the true foundation of the law of nations, and not that fanciful one suggested by Montesquieu when he represents the whole code as a set of corollaries from one simple proposition of obvious truth—that in war nations ought to do each other as little harm, and in peace as much good, as is consistent with the safety of each.

The combination of the three hundred states of Germany, of various extents and different forms of government, and with interests widely differing and even conflicting, implied at every instant and in every act a recognition of the fundamental principle which

has now been stated. When a powerful prince was prohibited from seizing upon the territory of his weaker neighbour, the rights of the latter were admitted and enforced. When a defensive war was undertaken by the whole body to protect one member who alone was attacked, the duty of mutual aid was in like manner acknowledged and acted upon. Indeed, the bare existence of the Diet or Congress, and the promulgation of general laws—the levying of money and of troops for general purposes—all equally admitted the rights and duties of independent states as such; all equally assumed their subjection to a code binding upon them and regulating their intercourse with each other. This code is precisely what we term the Law of Nations, or International law—the law which, considering nations as its subjects, has for its object their relative rights and duties. The difference between this and that of the Germanic Constitution is, that there exists no regular court to administer and to enforce it. All civilised nations are its subjects, and they maintain it only by an appeal to arms, rendered considerably less frequent and less precarious by two circumstances—the diffusion of a knowledge of the principles of the code, which thus comes to influence the conduct of states, and the disposition of nations to unite in preventing aggressions upon weak neighbours, from the apprehension that some one will obtain a pre-eminence in power dangerous to the whole. The recognition, and in some respects the origin, of this international code is to be found in the principles of the Germanic Constitution. The general law of nations is in truth only an extension of those principles to all states not united in any formal league.

The study of this system was diligently pursued by the lawyers and statesmen of the Netherlands, Germany, and Italy; and their able and laborious writings and lectures have been of great service in propagating a respect for the rights of nations and an indisposition to oppression and conquest. It was impossible to form the principles of the law into a regular science without adopting much refinement, and pursuing the fundamental maxims into their more remote consequences, and even with minute detail. Everything relating to national rights and independence; to the causes of war and all that gives a title to make it; to the mutual intercourse of commerce and navigation, including the right over certain portions of the sea; to the manner of con-

ducting treaties and carrying on peaceable relations; to the manner of conducting war and the restraints which should be put upon its violence; to the intercourse between neutral states and belligerents;—all these subjects and others of a kindred sort form the materials of the Public or International code, and it is evident that these could not be treated by learned men in detail, and studied generally by the well-educated portion of every community, without engendering feelings and opinions exceedingly favourable to national rights, and adverse to their wanton infringement. Politicians studied them as well as lawyers; and public jurists, acquiring great reputation, gave these doctrines general weight and authority, and not unfrequently became themselves the ministers or the ambassadors of sovereigns.

If, instead of Europe being parcelled out among absolute sovereigns and aristocracies, it had been generally under the rule of representative or limited monarchies or of republics, where the voice of the people could have been more regularly heard, and public opinion would have prevailed, the law of nations would have been more constantly respected, and those infractions of it which have so often alarmed and disgusted the world would never have been attempted. The scandalous scenes in Poland and Italy—the partition of the one, and the usurpations over so many states of the other—are the grossest violations of public law in modern times, and no more daring breaches of its most sacred enactments can be found in the history of any age. But they were the genuine produce of a despotic soil; and it must be observed that the way was paved for them by the previous rebellion of Prussia against the laws of the German empire—a rebellion countenanced in England from absurd jealousy of France, and from a preposterous notion that it was our interest and even our duty to uphold a Protestant power in its aggression upon a Catholic neighbour. It would be too much to affirm that in those days when men were fanatically given both as to religious and political matters, and prone to regard all Frenchmen and all Catholics as a kind of natural enemies—the establishment of a truly popular form of government among us would have prevented the follies of the German war. But it may safely be said that, had the English people then possessed a due share in the administration of public affairs, the delusion in favour of Frede-

rick II.,—who by the way was an infidel as well as a Protestant,—would not have carried the nation so far nor lasted so long as it did; and assuredly, if the Prussian people had been consulted, the Silesian invasion would not have been undertaken at the beginning, nor the Polish partitions in the middle and at the end of his reign.

In thus once more explaining the advantages of a popular over an absolute government as regards international laws, the preservation of peace, and the maintenance of rights, it must not be supposed that we are laying down anything inconsistent with what has been said, upon the superior efficacy of a federal constitution among Princes to one formed among republican states. Such a league assumes the existence of a government and a controlling power which is wanting in the great community of nations at large, and its place can only be supplied by the action of individual nations and occasional alliances of nations. Now here it is that we are in want of the force derived from public opinion under the guidance of a sense of general interest; and here the wider the basis of the government is, the more we may rely upon men's true interests and right feelings being efficacious to prevent individual caprice and selfishness from doing wrong or failing to do right.

It remains that before quitting the subject of international law we should note one remarkable difference between its principles and those which regulate ordinary municipal jurisprudence. It will be found however to be more in appearance than in reality, and to fall within the same more universal rules of expediency which alike govern both the code of public and of municipal law. In every community the corner-stone of all law is the right of property, and it is usually said that each man is entitled to the undisturbed possession of as much as he can acquire without injuring the rights of his neighbour; that there is no such thing as too much or too little; no right in the state to restrict any one's accumulations or acquisitions on the ground of his having as much as the public interest or safety permits. In the community of nations a contrary principle has been introduced; if any one state, even by the free consent of a neighbour, extends its territory and consequently its power, the others have a right to resist the change as eventually dangerous to the general peace and independence of the whole. The difference

however is not in the principle, but only in the circumstances to which that principle is applied. The paramount consideration in both cases is the same, the general safety or interest. This in a community is best preserved, almost universally, by suffering individuals to acquire, enjoy, and bestow their property as they please, because such freedom and security encourages industry, and the cases are extremely rare in which any accumulation can prove more dangerous than a prohibitory interference would prove in all. With the community of nations the case is otherwise; for the increased power of any one, however the acquisition may be effected, is sure to endanger all the rest. In fact, we find instances have occurred of municipal laws prohibiting the accumulation of private property on grounds of public policy. In the ancient commonwealths it was systematically restrained as inconsistent with the republican form of government. In some modern states checks have been imposed upon it. The French law at this day restrains the power of devising real property in order to prevent the accumulation in one hand of inordinate possessions; and even in England a bound has been fixed, beyond which the present enjoyment of income shall not be deferred after a proprietor's decease, at the expense of the next heirs, for the purpose of greatly augmenting the fortune of a remoter descendant. The same regard for general advantage, the same sense of public danger or extensive inconvenience, which gives rise to such provisions as these, is also the foundation of the principle to which we have referred as being introduced into the practice of international law, and which is known by the name of the *Balance of Power*.

Upon the internal polity of each of its members, as well as upon the mutual relations of the states, the German constitution exercised certainly a considerable influence. There was not only a direct appeal to the Diet on behalf of any individual who had a seat in it if oppressed by the sovereign whose subject he was, but there lay an appeal to the Imperial Chamber (an emanation of the Diet) in all matters affecting the public peace of the Empire, even if these had arisen from dissensions in the domestic affairs of any state. It is manifest that this general superintendence must have operated as some control over the oppressions of the sovereign and the aristocracy even in the states where the domestic jurisdiction was unfettered by the universal

right of appeal. The intercourse established between different states was also a beneficial circumstance for general improvement. But it must be admitted that in all other respects the aristocratic constitution of the diet was little calculated to promote popular rights in the different nations which were there represented. The title to sit, with the exception of that conferred by the Free Towns upon their deputies, was purely of a feudal and territorial kind; and the whole principles of the system tended to the encouragement of the aristocracy and the degradation of the people.

The progress of the French arms after the return of Napoleon from Egypt had so reduced the power of Austria and established the influence of France over the German princes, that the empire could no longer be said to have more than a nominal existence. Bavaria, Wirtemburg, and Baden were in alliance with her against Austria, joined in the war of 1805, and received a large accession of territory at the peace which followed the disasters of that short but decisive campaign. The Emperor of Germany had the year before assumed the title of hereditary Emperor of Austria;* and it might with little foresight be perceived that his imperial title by election was soon to cease. Accordingly he resigned it in form the year after,† and the ancient empire of Germany was dissolved—a new federal body under the authority and protection of France having immediately before been formed of the states not closely connected with either Austria or Prussia.‡ It was called the "Confederation of the Rhine" (a name borrowed apparently from the ancient league), and consisted of Bavaria and Wirtemburg, erected three years before into kingdoms—Baden, Hesse Darmstadt, Berg, now erected into Grand Duchies—and eleven smaller principalities; to which others, as Wurtzburg, Saxe Coburg, and the rest of the house of Saxe, were afterwards added. The head of this Federacy was the French Emperor, under the title of Protector, and in its constitution it rather resembled a permanent alliance for warlike purposes than a union for mutual protection, national administration, and general police. The sovereignty of a great number of petty Princes,

* 11th August, 1804. † 6th August, 1806.

‡ Title of Emperor of Germany resigned and Empire dissolved, 12th July, 1806.

members of the Germanic body, was abolished, their dominions being transferred to the members of the Confederation, and nothing left to them but their private property and their domain lands, which they were to enjoy as individuals, but without power of alienation excepting to the Princes of the Confederation. The French Emperor and the confederated states were bound to make war each on the enemies of the other; but no general arming was to take place without a requisition from the Emperor to each state. He therefore had the power of peace or war as entirely as if the whole league were subject to his government. The number of troops to be furnished by each state was fixed; France, 200,000, all the others 58,000 in the following proportions:—Bavaria, 30,000; Wirtemburg, 12,000; Baden, 3000; Berg, 5000; Hesse Darmstadt, 4000; Nassau and the ten other small principalities, 4000. The affairs of the league were to be carried on at an Assembly or Diet held at Frankfort, which was made a principality for the Elector Arch-Chancellor, now created Prince Primate and President of the body for life, his successor to be appointed by the Emperor or Protector. The Diet was divided into two Colleges, one of Kings, the other of Princes; and to the former belonged the three Grand Dukes, as well as the Emperor and the two Kings. But so little importance was attached to any part of the constitution except the military union, that not only was everything relating to the proceedings of the diet reserved for a future act, called a "*Fundamental Statute*," but nothing whatever was stated respecting the two colleges; and whether their concurrence with that of the Protector was required for the adoption of any measure, or whether the Protector was to have a veto, or whether in the event of their differing he was to decide between them, was not specified; nor was it provided in what cases the whole should meet as one body, although the existence of such cases was plainly contemplated, because one article (x.), while it made the Prince Primate president of the diet, directed that he should preside in the College of Kings, and the Duke of Nassau in that of Princes, "when the two colleges had to deliberate on any subject," and the "*Fundamental Statute*" itself, which should regulate all proceedings, was to be proposed by the Primate and "approved by the confederated states" before any mode had been prescribed by which their votes were to be given. There

needs no more proof, both that the formation and maintenance of a military alliance was the object of the Confederation, and that its members were mere instruments in the Protector's hands, subservient to his designs and governed by his will. The league, accordingly, during the eight years of its continuance, exercised the powers of its constitution only in name, blindly obeying in every particular the orders of Napoleon; and so important a part of his power did he consider his "Protectorate," which in fact gave him admission into the heart of Germany, that after his reverses in 1813 and 1814, when the allies had entered France and were negotiating with him upon the terms of peace, everything had been arranged, even the frontier of the Rhine yielded to him, when his refusal to give up the sovereignty of the Confederation was the chief, if it was not the only real, cause of breaking off the treaty* and carrying the allied armies to Paris.

When the overthrow of Napoleon in 1814 reduced France within her ancient limits, and when his extraordinary return from Elba the year after induced the German states to arm and to provide for their common safety, a new Confederacy was formed upon a more solid and extensive foundation than the Rhenish league. Although defence rather than government was the purpose of its creation, its construction must be admitted to show less regard to objects of merely military policy, and to proceed upon far less crude and ill-digested principles, than were to be traced in the structure of the Federacy which it succeeded.

The existing Germanic Confederation was established on the 8th of June, 1815,† at a time when Princes were appealing to their subjects for assistance against the common enemy; and if it bears marks of the exigency which pressed upon them, in the liberal intentions promulgated and the lavish promises made as regards the internal policy of the different states—intentions never to be fully acted upon, and promises never to be honestly performed—the federal policy, being dictated by a spirit of mutual distrust and pretending to nothing beyond what it really contemplated, wears a more ordinary aspect and has been carried practically into execution.

* This statement, though not generally, perhaps very little, known, may be relied on.

† Only ten days before the battle of Waterloo.

The members of this Confederation are,—Austria and Prussia, in respect of the possessions which they formerly held in the Empire;—Denmark, in respect of Holstein;—the Netherlands (now Holland), in respect of Luxemburg;—the other Sovereign Princes of Germany,—the four free cities of Lubeck, Frankfort, Bremen, and Hamburg. All these are bound to maintain, both among themselves and against any foreign power, the independence and security of each state; to refer their differences for the decision of the Federal Assembly or Diet; never to take arms one against another; nor to negotiate, whether for armistice or peace, with any foreign state against whom the Diet may have declared war; nor to make in time of peace any alliance, nor enter into any treaty injurious to the security of the Confederation or of any Confederate State. The rights of all the members of the body are equal; that is to say, each is independent and sovereign, both with respect to the others and to foreign powers, except in so far as all are bound, and equally bound, to comply with the resolutions of the Diet, in which each is represented, though with various proportions of influence. The deputy of Austria presides, and is bound within a fixed time to lay before the Diet any proposition which any other member of the body may make. If the proposition does not touch the fundamental laws of the league or the Act of Federation itself, the votes are seventeen, and are thus distributed:—Austria, Prussia, Bavaria, Saxony, Hanover, Wirtemburg, Baden, Hesse-Darmstadt, Hesse Duchy, Denmark, Netherlands (or Holland), have one vote each; Saxe Coburg and the other houses of Saxe, one among them; Brunswick and Nassau, one between them; the two Mecklenburgs (Strelitz and Schwerin), one between them; Oldenburg, Anhalt, Swartzenburg, one among them; six other small states, one; and the four free cities, one; making in all seventeen. If the proposition touches the constitution, there are sixty-nine votes, thus distributed:—The six great powers whom we have first named have four each; the five next named, three each; Brunswick, Schwerin, Nassau, two each; twenty smaller states, and the four free cities, one each. When the Diet thus votes, it is said to be in "*Full Committee*" or *General Assembly (Plenum)*, and two-thirds of the votes are required to adopt the proposed alteration of the fundamental law; upon ordinary occasions a bare majority of the votes decides, and

Austria has a double or casting vote in case of equality, which, however, cannot happen unless some vote is wanting. The Ordinary Assembly decides, and by a mere majority, whether or not any proposition shall be referred to the General Assembly. But matters affecting fundamental laws, individual rights, or the interests of religion; are not decided by the majority of votes, even if they come before the Ordinary Assembly. The sitting of the Diet is permanent, and it cannot adjourn for more than four months. The rules to be followed where any member of the Confederation has a complaint to make against any other were fixed in 1817.* If the parties cannot agree and if the Diet should fail in its mediation between them, the accuser or complainer is bound, within six weeks, to choose one of three members named to him by the other party within six weeks after the charge is finally made before the Diet; and the Diet is to name the three if the accused do not. The court of last resort in the state of the member thus chosen decides the case, after receiving whatever information upon the subject, and especially upon the negotiations with a view to a settlement, the Diet has to give.

The different states are bound to furnish troops in proportion to the population of their several dominions; and that the army of the Confederation may be ready at all times when called out by the Diet, each state is to have one man in every six hundred of its subjects always enrolled, and actually under arms four weeks in the year; but no larger number is to be required without a special vote of the Diet. Each state also furnishes its proportion of the expenses when the troops are called out, and names the commander of its contingent; but the Diet appoints the general-in-chief, who has the absolute control of the military plans and operations, and holds his office only as long as the army is in the field. He has the power of suspending all officers under him, and is himself only responsible to the Diet. The details of the military arrangements were settled by a decree of the Diet in 1821.†

Thus far all was according to the real as well as the avowed intentions of the body, and has accordingly been carried into execution. But it was also provided by the original Act of Federation in 1815, that in each of the states, members of the Confederation, there should be established a constitutional as-

* 16th June. † 19th April.

sembly of States General; that laws should be passed by all, abolishing every distinction in respect of civil or political rights on account of differences in Christian religious faith; that the means of admitting the Jews to the same equality should be taken into consideration by the Diet; that the subjects of each state should be capable of holding land in the dominions of the others, without greater charges than the natives are subject to; and that each should allow its subjects full liberty of emigrating to the dominions of the others, and entering their civil and military service, in so far as may be consistent with the obligations of military service at home. The Diet also engaged to occupy itself with framing a system of regulations to be adopted by the whole Confederation upon the liberty of the press, and for protecting the rights of authors and publishers, and another system for regulating commercial intercourse and navigation.

Of these promises some have been partially performed—some entirely broken—some kept in appearance, but in reality forgotten. The giving of equal rights to all sects of Christians is the most important by far of the improvements granted according to the hopes held out; but nothing has been done for the relief of the Jews. In a few states, as Bavaria, Wirtemburg, Hesse, and Hanover, most imperfect constitutions have been established, by which at the utmost only a feeble commencement is made of popular representation, and a step extremely insignificant taken towards imposing restraints upon the absolute power of the sovereign. So little indeed is regular government by States General effectually settled in these countries, that when there has been a refusal to levy or to pay troops, the Prince has acted of his own sole authority, on the ground that he was bound to have his contingent always ready for the Federal army, and has threatened his refractory subjects with the vengeance of the Federal body, by which laws have been passed to make the princes, in the most essential particulars, absolute, whatever may be the constitution in their dominions. But the liberty of the press instead of being secured has been destroyed by the Diet. The edict of 1819,* after setting forth the abuses and licentiousness of the press, aggravated of late years "by deliberative assemblies extending the publicity of their debates to matters which should only come out of the sanctuary of

* 20th September.

the senate in regular and solemn form, and ought never to be made the sport of vain curiosity or superficial criticism," and affirming that nothing but "folly and falsehood could impute sinister designs to the governments of Germany after the proofs of generous feeling which they had so often given to their subjects," proceeds to prohibit the publication of all works of twenty sheets or less without previous licence from the public authorities; makes the government of each state answerable to the Confederation for any publication injurious to the dignity or safety of any other; enacts that each government shall exercise a strict superintendence over the press within its dominions; gives the Diet power, either upon any complaint made or of its own mere motion, to suppress any work after examining its merits by a commission, and to order the discontinuance of any periodical publication; and provides that the editor of any suppressed journal shall be incapable of acting as an editor for five years in any of the states of the Confederation. This scandalous edict is not more at variance with the expectation intended to be held out by the act of 1815 than it is repugnant to the very nature of the federal union, which has properly no concern whatever with the internal affairs or police of the states composing it, unless in so far as is absolutely necessary for maintaining the federal relation.

The Revolution of July 1830 in France gave an impulse to liberal opinions in Germany, which again excited the apprehensions of its sovereigns; and in 1832* the Diet enacted still more severe laws for the repression of popular feeling and the establishment of absolute power. The princes were required to reject every proposition of their subjects that recognised any other source of power than the throne. The refusal of supplies by any assembly with the view of obtaining concessions from the Sovereign was declared to be sedition and punishable by the federal power. Any legislation contrary to the objects of the Confederation (as a law establishing the liberty of the press which Baden, one of the states, had made) was pronounced illegal, and liable to be abrogated by the Diet. A permanent commission was appointed to watch over the legislative proceedings of the several states.—Not satisfied with this arbitrary edict, the Diet in the following year† prohibited all foreign

* 28th June. † 5th July, 1833.

works under the size of twenty sheets unless licensed; put down all political associations; declared all meetings illegal that were held without authority of the Government in the different states; and placed the universities under more strict regulations. Finally in 1834* a tribunal of thirty-four, two to be named by each vote in the Diet, was appointed to arbitrate between any Prince and the legislative body of his state, both as to the interpretation of the constitution and as to the refusal of subsidies. The constitutions granted to these states may thus be said without any exaggeration to have been virtually repealed, by being placed entirely under the control of the Confederation, that is of the sovereigns forming the federal body, and the most reprehensible principles of the Holy Alliance were established over every part of Germany subject to the Diet.

* 30th October.

EMPERORS OF GERMANY.

CARLOVINGIAN.

800 Charlemagne, d. 814.
813 Louis I. (Le Débonnaire), d. 840.
817 Lothaire, d. 855.
850 Louis II., d. 875.
876 Charles II. (The Bald), d. 877, son of Louis I.
880 Charles (The Fat), d. 888.
891 Guy, d. 894, great-grandson of Charlemagne.
891 Lambert, d. 898.
896 Arnoul, d. 899, grandson of Charles the Bald
900 Louis III. (The Child), d. 911, k.
911 Conrad I.* d. 918, k.

SAXON.

919 Henry I.* (The Fowler), d. 936, k.
962 Otho I. (The Great), d. 973.
973 Otho II., d. 983.
996 Otho III., d. 1002.
1014 Henry II. (The Saint), d. 1024, great-grandson of Henry I.

SALIC.

1027 Conrad II. (The Salic), d. 1030.
1046 Henry III., d. 1056.
1084 Henry IV., d. 1106.
1111 Henry V., d. 1125.
1133 Lothaire* (The Saxon), d. 1137.

HOHENSTAUFFEN.

1138 Conrad III., d. 1152, grandson of Henry IV., k.
1155 Frederic I. (Barbarossa), d. 1190, great-grandson of Henry IV.
1191 Henry VI., d. 1197.
1200 Otho IV.,* d. 1218.
1220 Frederic II., d. 1250, son of Henry VI.
1250 Conrad IV., d. 1254, k.

VARIOUS HOUSES.

1254 William (of Holland), d. 1256, k.
1257 Richard (of England), d. 1272, son of King John, k.
1273 Rodolph (of Hapsburg), d. 1291, k.
1298 Albert (of Austria), d. 1308, k.

LUXEMBURG.

1312 Henry VII.,* d. 1318.
1328 Louis IV., d. 1347.
1355 Charles IV., d. 1378.
1378 Wenceslaus, dep. 1400, d. 1419, k.
1400 Robert I.,* d. 1410, k.
1410 Josse, d. 1411, k.
1433 Sigismund, d. 1437.

HAPSBURG—AUSTRIA.

1438 Albert II., d. 1439, k.
1452 Frederic III., d. 1493.
1503 Maximilian I., d. 1519.
1531 Charles V., d. 1558, k. 1519.
1558 Ferdinand I., d. 1564.
1564 Maximilian II., d. 1576.
1576 Rodolph II., d. 1612.
1612 Mathias, d. 1619.
1619 Ferdinand II., d. 1637.
1637 Ferdinand III., d. 1657.
1658 Leopold I., d. 1705. (Ferdinand IV., k. 1653, d. 1654.)
1705 Joseph I., d. 1711.
1711 Charles VI., d. 1740.
1742 Charles VII.* (of Bavaria), d. 1745. (Maria Teresa, daughter of Charles VI., Empress 1745, d. 1780.)
1745 Francis I.,* d. 1765 (married Maria Teresa).
1765 Joseph II., d. 1790.
1790 Leopold II., d. 1792.
1792 Francis II., abdicated 1806, d. 1835.

*** The *first* column gives the year of election—in the Carlovingian race it is the year of coronation.—d. died;—k. King of Germany, afterwards King of the Romans.—* denotes a remote relationship, or none at all, to the preceding Emperors or Kings.—Where names follow one another and no notice of relationship is given, the succession is by the son being elected after the father.

CHAPTER XV.

GERMAN KINGDOMS.

Federal Unions of two kinds, Proper, and Improper or Imperfect—Examples of each—Differences between the two—General principles applicable to each—Examples in ancient and modern times—Different origin of the two kinds—Their different tendency and consequences—Examples—Effects of national and individual prejudices—Inefficacy of free institutions under imperfect federal unions—Illustrations in Germany, chartered colonies, Ireland, Scotland, Hungary—Advantages for defence—Complete independence best of all where possible—Complete union next best—Bohemian constitution—Importance of the kingdom—Its general history—Austrian succession—Twice interrupted—By the Elector Palatine—By the Elector of Bavaria—Destruction of the balance of power by Prussia—States of Bohemia—Power of the Crown—Peasantry, villenage—Toleration, clergy—Military conscription—Moravia—Austria—Tyrol—Prussian monarchy—Brandenburgh—Successive acquisitions in Poland, Germany, Switzerland, Holland—States disused—Government—Frederick's policy—His reforms—Napoleon's reforms—Those of Frederick's successors—Delay of representative government—Different conduct as to the press—Vices of the Prussian system—All improvement precarious without popular constitution—Proofs from the history of Prussia, Austria, France, Hanover, England—Instances of remains of feudal restraints—Saxony—Lusatia—Juliers and Berg—New constitutions of Saxony, Bavaria, Wirtemberg.

THE German empire, as we have seen, was a federal body composed of many states, each of which, except the Imperial towns, had its particular or domestic monarchical constitution. We are now to consider the nature of these constitutions, having hitherto confined our attention to the relation in which the states stood to each other as component parts of the Imperial body.

But before proceeding to this examination, we may remark that there are two ways in which the federal relation subsists among states. The one, which may be termed the *Proper* Federal Union, is where two or more states, having their separate governments for all domestic purposes, are united by a central government, which regulates their mutual relations as members of a political community; but does not interfere with the functions of the several governments, and their authority over the indi-

viduals who are their subjects, unless in so far as those functions and that authority may affect the federal relation; and it is of the essence of this proper federal union that its different members should have equal rights, and that all should bear a part in the central administration. The other, which may be termed the *Improper* or *Imperfect* Federal Union, is where two or more states, having their separate governments for certain domestic purposes, are united under a central government, which controls each state and forms a part of its government for domestic purposes; in a word, where several states having separate political institutions are under one executive administration. Of the former kind were the federal unions of Ancient Greece, and in modern times those of Germany, Switzerland, and the United States of America. Of the latter kind was the union of England, Scotland, and Ireland during the seventeenth century; of England and Ireland previous to that period; and of Great Britain and Ireland during the eighteenth century. To the same class of imperfect federal unions, belonged the monarchies of Austria and Prussia ever since they consisted of more than one state; the Scandinavian monarchy of Sweden, Denmark, and Norway, from the union of Calmar in 1397 to its interruption in 1448, and occasionally at intervals from thence till its final dissolution in 1521; the Swedish monarchy since the cession of Norway in 1815, and previously after the acquisition of Pomerania in 1648; the Danish ever since the accession of Schleswig and Holstein; the Spanish, consisting of the kingdoms of Spain from the latter part of the fifteenth century—of Sicily, Sardinia, Naples,—and of Austria, the Milanese, and the Netherlands added to these vast dominions at the beginning of the sixteenth century, and Portugal joined to them for above fifty years. The French monarchy, indeed, during the earlier parts of its history, and before the different duchies and principalities were incorporated in one kingdom, is another example of the imperfect federal union, as is the English monarchy while it possessed dominions in France. The union of Hanover with the British dominions from 1715 to 1837 comes within the same description; and the subjection of the conquered colonies to the Crown of the mother country constitutes a federacy of the like kind. In all these instances the subjects of the central government are the inhabitants of the different states under its

dominion; in the proper federal union, the subjects of the central government are, not the inhabitants of the different states, but the different states themselves, the inhabitants of each being the subjects of its separate government. Thus the Venetian and the Hungarian are alike subjects of the Emperor of Austria; the former is subject to him as King of Lombardy and Venice, the latter as King of Hungary. The Bohemian too is subject to him as King of Bohemia; but before 1806 the Emperor, with the Diet, held dominion over Bohemia as a member and subject of the Germanic empire, while the Bohemian was the Emperor's subject as King of Bohemia. So before 1801 a Hanoverian was the King of England's subject as Elector of Hanover, and an Irishman was his subject as King of Ireland; nor did the existence of States in Hanover and of a Parliament in Ireland prevent the Sovereign from exercising his authority as ruler, greater or less according to the constitution of the two countries, in Hanover and in Ireland; but Hanover was itself subject to the authority of the Germanic government, which exercised its dominion not over the Hanoverians, whose ruler was the Elector, but rather over the Elector himself. In like manner a Canadian and an Englishman are both subjects of the British Crown, though there is a Parliament in the province and one in the mother country. But if Canada were separated from the mother country, and united with the States of North America, the Canadian would be subject to the Provincial Government, and the State of Canada would be subject to the Federal Government, to which the Canadian would only be subject in respect of matters affecting the relation of the States to each other in the Federal Union. Suppose it were expedient to change the municipal law of Bohemia while under the German empire, and of Canada in the case put of its union with the North American States; this change could only be effected by the Government of Bohemia and of Canada, and neither the Diet of the Empire nor the Congress of the United States could interfere otherwise than as they might recommend such an alteration to the local governments, if the interests of the Germanic and the American federal body rendered this advisable. But it is far otherwise in the Imperfect Federal Union. The Emperor of Germany, as King of Bohemia, would take the steps necessary for effect-

ing the alteration required in the Bohemian law, and the Executive Government of Great Britain would act in like manner with respect to the Canadian law, as if the former governed the kingdom from its capital of Prague, and the latter governed the province from Quebec, instead of being represented by viceroys and deputies.

In neither of the two kinds of Federal Government is it at all necessary that the Constitutions of the different states should be similar to one another, and that they should resemble that of the federal body, although it has most frequently happened that both these resemblances have taken place. The Greek Confederacies were composed of republican states, and the central government had also the republican form. The Swiss and American unions fall within the same predicament. The constitutions of the Austrian states, though they differ materially among themselves, are all monarchical, and that of Hungary alone can be classed with limited monarchies. The Prussian states are all subject to absolute monarchy. The Danish government, previous to the revolution of 1661, was an aristocratic monarchy, while in its German dominions the Crown was absolute, and since 1661 the royal authority has been more perfect in Denmark than in Germany. The constitutions of the states composing the Spanish monarchy at different times have a general resemblance to each other, though with some remarkable diversities. The Germanic body had among its members some states of a republican form, as the Swiss cantons before their final separation at the end of the fifteenth century, and the Imperial towns down to the latest period; and the central and federal government was nearly that of a limited monarchy, while the domestic constitutions of the different states were absolute monarchies. An equal diversity existed in the states united under the British Sovereign, who was in one part of his dominions an absolute, and in another a limited, king. Nay, at this day the same diversity exists, although Hanover is separated from the Crown; for in the colonies which have no legislatures the Crown has unlimited power; and although, from the circumstance of the dominion belonging to the Crown of Great Britain, this power must be exercised through responsible advisers and agents, yet the responsibility is to the mother country and the Parliament, not to the people of the colonies

themselves, with respect to whom the power is as unlimited as in the greater number of European monarchies.

The origin of the two kinds of federal union is as unlike as their nature. The proper federacy has always been formed voluntarily by the union of independent states for their mutual benefit, generally for their defence against a common enemy, or liberation from an oppressor; the imperfect federacy has always arisen from the acquisition of new dominions by inheritance or by conquest. The origin of the ancient leagues is lost in antiquity; but the union of the Swiss cantons, first against Austria, afterwards against Burgundy, that of the United Provinces against Spain, and that of the American States against England, form important parts of authentic history, and were all of them acts of successful resistance to oppression. The steps are equally well known by which the Austrian, Prussian, and Spanish monarchies were formed; and although the accidents of birth and succession sometimes contributed in these and other instances to the uniting of various dominions under one Crown, the more frequent cause of such unions has been fraud and violence.

The tendency and consequences of the two kinds of union are equally dissimilar; beneficial in the one, hurtful in the other. The possession of many dominions with separate constitutions by one sovereign power, whether monarchical or republican, may confidently be pronounced always to have a pernicious effect, and to be inconsistent with the rights and liberties of all. In the first place, the natives who inhabit the different countries are always more or less strangers to each other; and even if their origin had been the same, and they spoke one language, the diversity of their institutions would draw a line of separation between them. In these circumstances there is no probability of the Government ruling with impartiality. One country will always be favoured more than the others; and this predilection is fully as likely to exist in a republican council and senate as in the court of an absolute prince, because national prejudices have quite as much scope where the popular feeling is represented as where one or two individuals think and act for themselves—not to mention the want of individual responsibility, and the effect of multitudes, and their representatives, keeping one another in countenance when the pursuit of a common interest or the gratification of a general propensity is the object in view, as we have

shown in a former chapter (ix).* The Austrians have never had nearly so much cause of complaint against their rulers as the Bohemians and the Milanese. The dislike shown by the Spaniards to their Flemish princes originated in the partiality of the latter for the country they came from; and their Italian and Portuguese dominions were always treated as foreign and conquered territories. Even the stern virtue and exemplary disinterestedness of William III. was not proof against his partiality for the Dutch; it was the cause of almost all his differences with England; and was only prevented from showing itself in a policy hurtful to English interests by the restraints which our constitution imposed upon the royal authority. The jealousy so long entertained of Hanoverian policy had the same origin; it gave rise to strong legislative provisions against foreigners and foreign connexions; provisions, some of which have survived the occasion for them;† and so far was it from being groundless, that even all the resources of the constitution were frequently found unable to contend with the royal propensity, and the interests of a great kingdom were sacrificed to those of a petty principality. Again—although the accident of the royal family coming from Scotland prevented any signal injustice towards that part of their dominions during the century preceding the legislative union, the history of Ireland down to the extinction of the separate parliament affords constant proofs of the misgovernment engendered by national prejudices and partialities operating on the public mind at least as strongly as upon individual rulers. It is an old observation that the colonies of countries under a republican government are worse treated than those of monarchical states; and certainly both the conduct of the ancient commonwealths towards their foreign settlements, whether conquered or planted, and the colonial policy

* The difference between the conduct of the people in the administration of their own affairs, and in disposing of matters which do not involve their own interests, or which may give their opinions or wishes a wrong bias by serving their interest at the expense of principle, cannot too steadily be kept in view. Compare the indifference of the English people and their representatives upon any question affecting the rights of their fellow-subjects in the colonies with their sensitiveness upon any question approaching their own rights, and you will perceive the diversity.

† The law which prohibits any foreigner from being naturalized by Act of Parliament, so as to hold even the most inconsiderable office, is one instance of this, to say nothing of its absurdity as an attempt at tying the hands of the legislature prospectively, and of its regular violation in all the cases in which foreign influence is the most powerful, viz. Royal Marriages.

of the Dutch, afford sufficient illustration of the position. The oppression exercised by the aristocratic republics of Italy over their foreign possessions is well known. Sardinia suffered much more under the yoke of Genoa and Pisa in the twelfth and thirteenth centuries than during the four hundred years that it belonged to Sicily and Spain. The Venetian tyranny over the Morea and the islands in the Levant hardly exceeded the oppression of the Terra Firma provinces, which lay within sight of the city, and in which, as if to take away all chance of fair treatment, none of the nobles (in whose hands ever since the end of the thirteenth century the government lay) were by law capable of holding any property. The subject bailiwicks of the Swiss confederation were notoriously ill governed; and it was remarked that the bailiffs deputed by the forest cantons—strict democracies—were the most oppressive.

But, secondly and chiefly, the evil consequences of the Imperfect federal union are to be found in its tendency to render all securities unavailing which the institutions of each state may have provided for the good government of its people. For the people have in each state to struggle against not merely the force and the influence which its resources place at the disposal of the ruling power, but likewise against whatever force and influence the same power can derive from all its other dominions; and whatever surplus is to be found over what is wanted for counteracting any one or more of the other states may be brought to bear upon any given point and render the government all powerful there (see page 440). In order to perceive the effects of such a union more clearly, we shall suppose the case of a limited monarchy, with a Parliament like that of England or France, united under the same Crown with another kingdom the resources of which are at the Crown's disposal. It is evident that the prince could, without the least infraction of the constitution, govern the country as he pleased, and never consult the wishes of his Parliament, provided he had money enough from his other dominions to make the stopping of supplies immaterial. He could not change the laws, or carry any other measure to which the consent of the Parliament was necessary; but he might follow whatever course of policy he pleased without the least regard to the interests or the wishes of his subjects, and might civilly but firmly refuse to regard in any manner of way their united remonstrances.

Such would have been the position of England if Hanover, instead of an insignificant, had been a great and wealthy country. Such is, in fact, the position of every colony possessing a legislature. Thus, if the Assembly of Jamaica or of Canada desires to have a change of measures and of ministers—if they have any grievance to complain of and desire redress—according to the letter and theory of the constitution, they have the same means of obtaining it, the same remedy as the Parliament of the mother country has in similar circumstances; they may stop the supplies until their desire is granted. But as the Crown, while the Parliament of the mother country supports it, has the means of carrying on the government of the colony without any colonial supplies, the practical result is that the colony must submit; whereas, had the same thing happened at home, the Crown must have submitted. This too would be the position of Ireland and of Scotland had they still local Parliaments; they would only possess a parliamentary constitution in theory and in name. As long as the English Parliament supplied the Crown with the means of governing the two sister kingdoms, the checks provided by the Constitution would fail in securing the rights of both; and the most grievous oppression might be practised upon the commercial as well as the other concerns of the people, to the gain of the English revenues, and to the ruin of the Scotch and Irish, without the least infraction of the Constitution. The different countries under one sovereign in Prussia, and still more in Austria, have suffered severely at various times from misgovernment of exactly this description. If, for example, Hungary were a separate state unconnected with Austria, and the king had no resources but what he derived from his Hungarian Parliament, many of the most oppressive restrictions upon industry, as well as other grievances, would long since have ceased. The extinction of the free constitutions which the European monarchies all originally derived from the Feudal system has been mainly owing to the same circumstance. We have traced its operation in the establishment of the French Monarchy (Chapter ix.), and have shown how the incorporation of the kingdoms of our English Heptarchy prevented the same thing from happening to us. If the German kingdoms had either remained entirely separate, or been wholly incorporated together under the several Monarchies, a parliamentary constitution would have been gene-

rally preserved, instead of the Assemblies of Estates gradually becoming disused and losing their control over the administration of affairs in each country.

The necessity of providing for defence against a powerful neighbour is the only justification of the imperfect unions. The Proper Federal Union, however superior in other respects to the Imperfect, is in this particular manifestly less efficacious; for it has less unity and vigour in council, and less promptitude in action. But a complete incorporation of the several states united under one sovereign rule is incomparably better, both with a view to defence and with a view to good government, than the continuance of separate constitutions, which only serves to keep up national dissensions by perpetuating lines of distinction, and takes away the best chance of amicable connexion as well as of wholesome administration that the different portions of the people can have.

It may then be laid down as a general position, that, if the necessities of providing for defence permit it, different states should continue separate and each subject to its several government; that, if a union of two or more becomes necessary for mutual protection, an incorporating union is in any view the best; if irreconcilable diversities of language, manners, and institutions render this impracticable, a Proper Federal Union is the next best expedient; while a union of the other sort is the worst connexion which can subsist among different states.

In this kind of union, however, it has been the lot of the greater part of the more considerable German principalities almost always to be connected together, and the consequences have been extremely injurious to the administration of their affairs, and to the freedom of their institutions. The general history of the whole German states is nearly the same, and differs little from that of the other monarchies which arose out of the feudal system. To trace the progress of them all, or even of the greater number, would be endless; for of kingdoms, electorates, duchies, marquisates or margraviates, counties, bishoprics, abbacies, there have been between two and three hundred of various extents, from monarchies of such importance as sufficed to maintain an independent existence, down to petty principalities no larger than moderate estates of private gentlemen, and with resources so feeble as threw them under the influence of

more powerful neighbours, and only enabled them to preserve even a nominal independence by the aid of the federal constitution of the Empire. We shall, therefore, confine our attention to a few of the more considerable states, and we may begin with Bohemia, now one of the most important kingdoms of the Austrian monarchy.*

Bohemia is said to have been originally settled by a Gaulish tribe, called Boji, who gave it the name six centuries before the Christian era. These were expelled first by the Sueir, and afterwards more completely by the Sclavonians, whose language is still spoken by the native Bohemians. Christianity was not established among the Bohemians before the very end of the tenth century, although it had been partially and temporarily introduced above a hundred years before. The conquests of Charlemagne had reduced them in the latter part of his reign (806) to be tributary under his empire, but they regained their independence in the reign of his successors, and Bohemia was not annexed to the Germanic body till the reign of Otho the Great, A.D. 962—973. Both before and after this junction it was governed by Dukes, who exercised a more despotic authority than was known in the greater number of the feudal kingdoms of the French and Germans, and who appear never to have consulted their inferior chiefs any more than Charlemagne did, unless when their assistance was wanted for some military enterprise. The succession was partly hereditary, partly elective; that is, among the princes of the reigning family, who divided the chief power, one was recognised as the chief, partly by intrigues, partly by superior force; and the rule of the eldest succeeding was not introduced till the year 1055. The body of the people were in a state of slavery; they were not even attached to the soil, but (like the slaves of the present day in the southern part of the United States of America) they were sold like cattle, and the Duke received a tenth of the price. The Moravians and other Sclavonian people were in the same circumstances with the Bohemians, but when the Magyars, a Turkish tribe established near the Danube, joining the German Prince Arnoul, invaded Moravia about the end of the ninth century, they

* The revenues of Bohemia were in 1780 nearly twelve millions of florins, those of Hungary being sixteen; and of all the Austrian duchies fifteen and a half. The whole revenue of the monarchies was then about eighty-four millions.

succeeded in partitioning the country, a portion of which they incorporated with their other territories, and called Hungary, and the rest of the country, now known as Moravia, came under the dominion of the Bohemian chiefs. These in the latter part of the eleventh century occasionally assumed the title of kings, Wratislaw having obtained the consent of the Emperor Henry IV. to this proceeding; but it was not till a later period that they were formally recognised as such, the dignity having been conferred upon Ottocar I. by Philip of Swabia, who began his reign in 1198. The Bohemian kings at different times possessed Silesia, Carinthia, Styria, Carniola, and for a short period, about the middle of the thirteenth century, Austria itself. But Bohemia lost all those dominions except Silesia in 1278, and they became the possession of the Hapsburgh family, in which they have descended lineally to the present day. In 1306 the male line of Sclavonian kings of Bohemia became extinct, and the Crown passed into the family of the Luxemburgh Emperors by the marriage of Henry VII. with the sister of the last Bohemian king. In the Luxemburgh family it remained till 1527, when it passed in like manner, on the death of Louis without issue, into the Austrian family, by the marriage of Ferdinand (afterwards Emperor) with the sister of Louis. On this, as on all other occasions of a new dynasty, the forms of an election were gone through, it being understood that upon the failure of the reigning family the right to bestow the Crown reverts to the estates of the realm. The exercise, however, of this right, as may well be supposed, is always prevented by the power of the candidate; and the Archduke of Austria would have been a formidable competitor, especially when married to a Bohemian princess, whatever other pretenders might appear in the field.

Since that period the Crown has descended in the house of Austria without any dispute, excepting in two instances. The first of these was the resistance attempted by the Bohemian States in the seventeenth century to the Austrian encroachments, which had been constantly going on since the accession of Ferdinand, facilitated as they were by the power which the Crown derived from the extent of its other territories. The immediate cause of the resistance was the dispute arising upon the construction of the Protection (Royal Letters) granted to the Protestants by Rodolph II. in 1609, and confirmed by his two suc-

cessors Mathias and Ferdinand II. in 1611 and 1617, a dispute out of which arose the Thirty Years' War. Upon the death of Mathias, the States, although they had two years before recognised Ferdinand as his successor, chose Frederick, the Elector Palatine, as king; and being supported by the States of Silesia, Moravia, and Lusatia, then united to Bohemia, they made war upon Austria. They were, however, completely defeated, and Frederick not only lost Bohemia, but was stripped of his own hereditary dominions. Ferdinand used his victory without any semblance of moderation. The States of Bohemia were declared to have forfeited all their rights and privileges; their existence was only continued on condition that they should never again set up any claim to elect the sovereign; the Royal Letters were annulled; the Protestants rendered incapable of civil rights, even of marrying or making a will; and such of them as persisted in professing their faith were compelled to leave the country within six months—an edict which drove 30,000 families, including 200 of noble rank, into banishment. In order to seduce the Elector of Saxony from his alliance with Sweden, head of the Protestant party, Lusatia was given up to him, and was to be held as a fief under the Crown of Bohemia. The persecution of the Protestants, and the ruin of the Elector Palatine, continued until the peace of Westphalia, by which toleration was extended to the former, and an eighth electorate created in favour of the latter.

This prince was son-in-law to our James I., whose refusal to make war in his behalf has been a fruitful theme of abuse against that monarch. Yet it must be confessed that, as nothing more hopeless was ever attempted than the scheme of the Palatine, so nothing could have been more criminal than to plunge England into the contest on his account.

The other brief interruption to the regular succession of the Bohemian Crown in the House of Austria occurred at the death of Charles VI., in 1740, without male issue, when the Elector of Bavaria seized upon Bohemia and Upper Austria, and was soon after chosen Emperor of Germany. A formidable coalition against Maria Theresa, the heiress of the Austrian dominions, was defeated by her energy and the steady support of her Hungarian subjects. She reconquered Bohemia and Upper Austria, drove the Elector (then Emperor Charles

VII.) from his own capital of Munich, and finally made peace, with the loss however of Silesia, which was retained by Frederick II. of Prussia; and thus began the course of unprincipled policy, so destructive of the balance of power and of all national security, which was afterwards consummated in the partition of Poland, and from the effects of which Europe has not yet recovered. Charles VII. died early in the war, and his son was glad to relinquish all claims upon the Austrian dominions in order to be reinstated in the possession of his own. The Grand Duke of Tuscany, Francis of Lorraine, having married Maria Theresa, and being chosen Emperor of Germany on Charles VII.'s decease, their descendants, forming the Hapsburgh-Lorraine branch of the House of Austria, have ever since possessed the kingdom of Bohemia with that of Hungary and the hereditary State.

The King of Bohemia was one of the Electors of the Empire, and next in rank to the Archbishops, from an early period, certainly from the beginning of the fifteenth century; but he only enjoyed the right of election, without a seat or voice in the Electoral College upon other questions, until the Diet of 1708, when he was fully admitted. His exclusion had been owing to his claim of exemption from all Imperial taxes and services, which in 1708 he waived. In very early times Bohemia and Poland had both been tributary to the Empire; their yearly payment in money amounted to five hundred marks of silver as far back as the tenth century. But the Bohemian tribute had been remitted ever since the time of Ottocar I., and for above 500 years.

The power of the Crown in Bohemia is substantially absolute, provided the king is content with the old taxes, and does not desire to raise any new ones; for in that case he must have the consent of the States, which are composed of four orders, the prelates, the territorial barons, the titular nobility, and the twenty-seven royal towns. The towns have altogether but one voice, and each of the other orders has four. The president is called grand burgrave, and is named by the king; he lays before the States the demands of the Government. Although the constitution requires a yearly convocation of this Assembly, yet, as the king alone can call it, can prorogue it, and can bring forward any matter for its deliberation, nothing but his ne-

cessities can give the States any weight in the administration of public affairs, unless it be that he is desirous of enacting some new law, and unwilling to do so of his own mere authority, without their sanction; as when Charles VI. in 1713 was minded to alter what had always been deemed the code of succession, and to make his eldest daughter heiress to the Crown, excluding the daughter of his eldest brother Joseph; he asked and obtained for this edict (a *pragmatic sanction* as it was termed) the assent of the States in all his dominions, and among the rest in Bohemia. But in all ordinary times the meeting of the States either never takes place or it is reduced to a mere empty form.

The ordinary administration of the kingdom is in the hands of six tribunals: a Chamber of Finance, a Council of Regency (which is the executive department), a High Court of Justice for appeals, two Courts of Appeal for questions touching feudal rights, and the Royal Chancery and Executive Council office, which follows the king's person; the other departments are all at Prague, except the Council of Regency, which is at Vienna. The ordinary administration of justice is intrusted to two baillis in each circle or division of the kingdom. All these officers are appointed by the Crown, and removable at pleasure, so that they can interpose but little obstruction to the power of the sovereign beyond what the fear of breaking through established usages creates. Some of the great offices under the Crown are hereditary in certain families; others, although not hereditary, are in practice always filled by Bohemian noblemen.

The abolition of servitude and villenage was effected in Bohemia, as in all the other Austrian States, by the edict of Joseph II.; but the peasants are still subject to different feudal services, called *robottes*. The free and the mine towns enjoy various privileges. The clergy here, as well as in Austria, bear their share in the public burthens, and are subject to the jurisdiction of the civil tribunals, unless in exempted cases, where the ecclesiastic law is in conflict with the municipal. No appeal to Rome is permitted in any of the German States under the Austrian Monarchy; and although the Catholic religion is the established one, all others enjoy full toleration, only that the hereditary great offices, which are held as male fiefs and filled by the heir male of the family, can only be enjoyed by Catholics.

As in all the states of the Austrian Empire, and indeed of Germany, the whole male population of Bohemia is subject to military service; and in times of peril, when the Government has continued in a state of war beyond the capability of the country, or when it has been attacked, no substitutes are allowed, unless for those who are privileged either by official station or by the rank of nobility. Hence, among other consequences of this liability to service, no man can leave the country without the royal permission, lest he should evade his turn of serving—a permission often refused, and indeed seldom granted without powerful interest.

The constitution of the other Austrian States in Germany resembles that of Bohemia; but Moravia most especially has had nearly the same history, and was peopled by the same Sclavonian nation. In Austria the Archduke (a title which the sovereign has had since 1453 without any doubt, but which was originally granted by Frederick I. three centuries before) is of age at eighteen, but the King of Bohemia at fourteen. In the Austrian Assembly of States Vienna has as many votes as all the other Archducal towns together. Although in all parts of the empire the consent of the states is deemed necessary for raising a new tax, the Tyrolese constitution is the one in which this principle is most clearly recognised and most practically acted upon; for the functions of the states in the two duchies of Upper and Lower Austria are reduced to little more than apportioning the sums to be levied among the different towns and baronies, while the consent of the Tyrolese States is formally asked, and whensoever they agree to a new impost they receive from the Crown a recognition of their right to refuse it. The sum granted is likewise levied in the name of the states; and their consent is necessary before troops raised in any other province can be marched into the Tyrol. The states, too, in the Tyrol have an order of peasants, which neither those of Austria nor of Bohemia have; and a Diet is held every two years, composed of deputies of the different orders, and to this body all public functionaries are required to account for their administration. The misfortune, however, is, that in all these provinces the authority of the Crown is supported by the great weight it derives from its other dominions. Even in Bohemia, the most powerful of the German dominions, no resistance to the Emperor's will is

ever made. Whether, if Hungary had the same constitution, its greater importance might not suffice to render its wishes more authoritative and curb the royal power, is a question hard to answer. Fortunately for the Hungarians their constitution is materially different, and places them in a very superior position with respect to civil liberty, although they have experienced many of the evils resulting from the Imperfect Federal Union. The subject of the Hungarian constitution does not belong to this branch of our inquiries, both because we are now occupied with the German States, among which Hungary does not rank, and because its government falls within the description of a limited monarchy.

The PRUSSIAN monarchy is a kingdom formed of many states, scattered in detached portions over the vast space reaching from the Baltic to the Alps and from the Vistula to the Rhine. But the country whose princes have by degrees accumulated all this extensive territory under their dominion is Brandenburgh, a portion of Saxony erected about the year 1157 into a Marquisate or Margraviate by Albert the Bear, whom the Emperor Lothaire had some years before created Margrave of the North. Albert's male issue failed in 1320, when the Emperor Louis of Bavaria conferred the margraviate upon his eldest son. The family, however, did not long retain it, and it fell to the Luxemburgh family, one of whom, the Emperor Sigismund, gave it in payment of a debt to Frederick of Hohenzollern, Burgrave of Nuremberg, whom he invested in 1417 at the Council of Constance. Otho and Albert the Bear had obtained the hereditary office of Grand Chamberlain, to which the electoral privilege was attached, and these dignities were continued both to his descendants and to the other princes who became possessed of the margraviate. But Frederick I. from the greater solemnity of his investiture is commonly regarded as the first Elector, and the present family are lineally descended from him.

The government in Brandenburgh was aristocratic and feudal, like all the monarchies in those times. The power of the barons was materially reduced by Frederick I., who succeeded in maintaining a state of comparative quiet, and in putting down the practice of private war. Nevertheless the civil government was substantially in the hands of the estates composed of the clergy and nobles. They fixed the number of troops, regulated the

taxes and expenditure; and passed the laws. The margrave had as little power as in any other feudal Parliament; and even a century later, in the reign of Joachim II., who embraced the Protestant faith, when the States redeemed certain districts which the Electors had mortgaged for a loan, they exacted from him a pledge never again to pawn or alienate the demesne lands without their consent; and in order that he should appear at the Diet and receive their remonstrance, they compelled him to give up a journey upon which he was setting out. The influence of the States declined as the Prince acquired new dominions, and he no longer consulted them. George William asked their advice in 1631 upon the question of siding with the Swedes and with the Imperialists in the Thirty Years' War, and this was the last time any appeal was made to them. During his reign, under the administration of Schwarzenberg, the whole power of legislation and of taxing was assumed by the sovereign. It is to be observed that George William was the first Elector who enjoyed with Brandenburgh the duchy of Prussia by inheritance; his father was the first who ever held the two together, and by an undivided title; and he died (1619) the year after the sole dominion of Prussia accrued to him.

The acquisition of territory has been for the last three hundred years and upwards constantly going on. The duchy of Prussia, which had been conquered from Poland, to which it originally belonged, by the Teutonic knights with the aid of the Crusaders, and was possessed by them for upwards of two centuries, was almost wholly occupied by German colonies, who had nearly supplanted the Sclavonian race, reduced to a small number in the long and bloody wars of the knights and their fanatical allies.* A prince of the Brandenburgh family, being grand master of the order, contrived by renouncing the Catholic religion and intriguing with Poland to obtain the duchy as a male fief, descendible in his house; and upon the failure of his male descendants it became united with the electorate in 1618. The Great Elector (as he is justly termed) took advantage of the difficulties in which Poland was involved to obtain a relinquishment of her feudal rights and an acknowledgment of the inde-

* The conquest was completed in 1283; and in 1525 the knights entirely lost it to Brandenburgh, but they had been deprived of a portion of the country by Poland above half a century before.

pendence of the duchy in 1657. Early in the same century the House of Brandenburgh obtained by marriage the duchy of Cleves and the counties of Marik and Ravensberg. By the peace of Westphalia (1648) they obtained Magdeburgh, Halberstadt, Minden, and part of Pomerania. Frederick, son of the Great Elector, obtained the Emperor's consent to take the title of king, which he did in 1701, and soon afterwards acquired Neufchatel and an accession of territory in Westphalia. At the peace of Utrecht in 1713 his son Frederick William I. obtained a part of Guelderland on pretence of some claim to the principality of Orange, which he set up as heir of William III. In 1720 he got Stettin and another portion of Pomerania. The military establishment of Prussia, which had constantly been on the increase during the seventeenth century, was still further extended by Frederick William, and might now be considered the most effective in Europe. At his death in 1740 he left a revenue of a million and a quarter sterling, which his son Frederick II. increased to four; a treasure of a million and a half, which his son made fourteen; and an army of 76,000 men (including 26,000 foreigners), all picked soldiers, which in his son's time reached 200,000. These resources enabled Frederick II. to carry on those wars which added Silesia to his dominions,* and to commit, with his two Imperial accomplices, the yet more enormous crime which gave him a share of Poland.† His skill and his success gained for him the appellation of "*The Great*," men being still, after all the lessons of experience and all the lights both of philosophy and religion, so insensible to their own interests, that they are ever bent upon exalting those most whose lives have been devoted to their destruction.

In Prussia, in Cleves, and in all the other countries which successively fell under the same crown, there had originally been, as in Brandenburgh, the same kind of government by States, together with the prince, whose power they limited, as in the other principalities which arose out of the Feudal system. But the increased power derived from new dominions enabled the king to dispense with those assemblies, first by controlling them, then by rarely appealing to them, ultimately by never calling

* 1742 and 1748. He also acquired East Friesland in 1744.
† 1772, 1792, 1794, and 1795.

them together. Thus, in a small territory like Cleves, the opposition which the States could offer to a powerful prince, possessed of Prussia and Brandenburgh, was manifestly unavailing. But in Brandenburgh itself the acquisition of Prussia early in the seventeenth century enabled the king to dispense with the States. A council was formed which consisted of the ministers of justice and finance and two other great officers; by it and the sovereign was carried on the government; from it all edicts proceeded; and it acted as the regency in his absence. The power of this council was reduced by the Great Elector in the course of the same century; he assigned different departments to each member, and appointed two councillors for each province, having instructions to correspond directly with himself. The useful improvements by which this prince did so much to restore the country after the ravages of the Thirty Years' War well earned for him the appellation by which he is still distinguished.

Although the history of the Prussian monarchs presents many of them in the odious light of conquerors abroad and arbitrary rulers at home, it is yet equally certain that there have been among them a considerable number whose desire was as much to improve their own dominions as to extend them at the expense of others, and indeed of their own subjects too; in other words, who knew how to perform, as well as they did how to violate, the first duties of a prince. Frederick William I., grandson of the Great Elector, pursued in a lesser degree his ancestor's plans of improvements; he established judicial tribunals in the provinces and encouraged the commerce of the towns. But his son Frederick II., after his first war was ended by the peace of Dresden, applied himself with the vigour of a more powerful and a more enlarged understanding to this important work. He appointed as his chancellor Cocceji, an eminent lawyer and a law-reformer, and made him digest into one code, called after himself the *Frederician Code*, all the various laws by which the different parts of the monarchy were governed.* The uniform system of jurisprudence thus framed and substituted for a mass of uncertain and discordant provisions was improved by succeeding chancellors, and in 1781 it was remodelled by Cammer, who then filled that important office. Frederick introduced salutary improvements in the modes of judicial proceeding,

* The Elector of Saxony, Augustus II., had the merit of setting him the example In 1724 he caused the Code Augustus to be compiled.

so as materially to abridge the delay and expense of litigation: he patronised the doctrines of milder punishments, one of the most useful amendments of the criminal law. He was careful in the choice of judges, and jealous in watching over the purity of their judicial conduct. He even consented for a short time to abolish the right of appealing to himself from their decisions; but his rage for doing everything himself, the weakness fatal to the usefulness of so many able men, prevented this most salutary reform from being permanent; and he continued to intermeddle very perniciously with the administration of civil as well as criminal justice. All ecclesiastical dignities and all church preferment were in his absolute gift; but he allowed the grand consistory to name in each case, only taking care, when the inhabitants of a place objected much to the choice, that it should be altered; and he enforced on all occasions (owing perhaps to his entire religious indifference) absolute toleration, keeping a strict equality among the professors of different faiths. The army was he chief object of his attention; but he did not neglect general education. Year after year he planted schools in various quarters, and in one year as many as sixty. Even in the government of the army, though he allowed great oppression in recruiting it, he discountenanced the claims of mere birth, giving the sons of noblemen no preference because of their rank; and on one occasion he answered with his own hand a count's application for his son in these memorable terms: "Young counts who have learned nothing are the most ignorant people in all countries. If it should happen for a wonder that a count could be good for anything, it must be by banishing all notions about his titles or his birth, for these are only follies; everything depends on personal merit:" so democratic can kings be, when, in their anxiety to accomplish a particular object, they only regard the securing of efficient services! But the most important of his improvements remains to be mentioned.

He appears to have formed the resolution of abolishing villenage from an early period of his reign, although he found it impossible to take this step without much preparation. His father in 1739 had made an edict which gave the serf's property some protection against the lord by prohibiting the dispossessing of serfs without just cause. But Frederick greatly improved this by an edict, issued in 1749, prohibiting the lord from seizing

to his own use the property of any serf whom he might dispossess; he was obliged to bestow the land upon a new tenant. The king made many other wholesome laws facilitating emancipation, restraining the lord's power, and conferring rights on the peasant. He emancipated the serfs upon many of the royal domains, and his example was followed by other proprietors.*

These improvements of Frederick, although great, left much still to be done; and the conquest of Prussia by Napoleon in 1806, from the necessity which it imposed on the government to conciliate the affections of the people and secure their cordial co-operation, was certainly productive of great eventual benefit to the country. Some of the most important reforms had however been first effected by Napoleon himself; of which it is only necessary to mention the total abolition of villenage and the extinction of all exclusive privileges in favour of any class of persons. This absolute equality of all the subjects of the state in the eye of the law was made a part of the Constitution which that celebrated personage gave to the kingdom of Westphalia and the Grand Duchy of Berg and Cleves when he erected those portions of the Prussian and Bavarian dominions into separate states for his brother Jerome and his brother-in-law Murat in the years 1807 and 1808. Similar changes had been begun by the late king about the same period in the remaining portions of the Prussian States; and the Bavarian Constitution of 1808 was of a similar kind.

Acting under the counsels of the excellent and truly liberal-minded Stein, Frederick William III. commenced his important reforms with an attack upon the most grievous and absurd of all the relics of feudal tyranny. None but Nobles could hold any land or other real property of the description called noble, comprising nearly all the real property in the country. This restraint was at once abolished, and all persons were enabled to acquire and hold property of any description. The establishment of six hundred municipal corporations was a measure of equal importance. The local affairs of the towns were thus administered

* In the Prussian code, which in 1784, 1791, and 1794, was substituted for the Code Frederick of 1749 and 1750, and contained all the regulations of Frederick II. in favour of the serfs, there are six sections of 462 articles upon the rights and duties of serfs.

by magistrates whom the inhabitants elected, all classes and all sects having an equal right both of choosing and of being chosen. Exclusive privileges of trade were at the same time abolished; and in 1808 an edict was issued which opened to persons of every rank all the military employments, which had before been accessible to the nobility alone. Flogging in the army was forbidden, and the use of the cane restricted to certain cases. In 1810 the unjust and invidious privilege which exempted the nobles from all direct taxation was done away. But in the same year Hardenberg, the successor of Stein, made a yet bolder step, not to say one of doubtful justice. Formerly the peasants had held their lands in two ways: one class had a hereditary right to their leases, like our copyholders, and the owner could not upon a peasant's death refuse to admit his heir. Another class held for life or for a term of years. An edict was now issued giving all the former class an absolute property in the land upon their surrender of one third to the lord in lieu of all his feudal rights, and giving the latter the same right upon surrendering one half. It is remarkable that the nobles, who had of course complained much of so violent an interference with their property, felt so soon the benefits resulting from the new arrangement, and especially from the improvement which it effected in the condition of their tenants, that they represented it as "*advancing them a century.*" The whole details of the feudal law, which we had occasion to consider in treating of the French Monarchy, prevailed in the Prussian States, as almost in every part of Germany; and the changes effected in 1810 and the preceding years have been valuable to all parties in proportion as the rights of the lord were far more burthensome to the vassal than beneficial to himself. Between 1809 and 1811 all that remained of the feudal system was abolished; the emancipation of the serfs was completed; all rights of private jurisdiction attached to property were extinguished; and the peasant was placed in the eye of the law upon the same footing with the noble proprietor. Considerable improvements in commercial and financial policy were likewise begun; and the chapters of the Protestant Church and convents of the Catholic were dissolved, their revenues being applied to the service of the State.

Finally,—but it is perhaps in itself, certainly in its probable consequences, the most important of all the reforms introduced,—a

system of universal education has been established, which, although liable to many objections, (and especially to the fundamental one that the instruction of all the youth in the country is vested in the agents of the Government,) nevertheless effectually provides for the elementary branches of knowledge being taught to the whole people, and thus, according to the unchangeable principles of human nature, must sooner or later counteract the mischievous tendency of the despotic framework of the scheme. There seems no possibility of retaining a well-educated people in subjection, still less of keeping them in that state of almost military subordination which prevails in Prussia; and if all the branches of instruction, save political alone, be given to the people, we may rest assured that the exception itself will cease in a little while.

That so many valuable reforms have been made is however no kind of excuse for the Prussian Government, while the promise has been broken which, more than all the other prospects held out to the people, succeeded in stirring up resistance to France,—the promise of a Representative Constitution. Other powers have in a greater or less degree redeemed the pledge solemnly given both in the earlier part of the struggle, and afterwards at Vienna in 1815, and in 1818 at Aix-la-Chapelle: Austria and Prussia have as yet done nothing of the kind; and although in the dominions of the former it is supposed that no great anxiety exists for a free constitution, the delay has created much discontent in Prussia. Nothing has been done to perfect the administration of justice in the greatest of all its particulars, the rendering judges independent and requiring all proceedings to be public; and yet this had formed a part of the constitution given by Napoleon to Westphalia, absolute as it was in most other respects.* Nothing, to give the only security against misgovernment, the only assurance of future peaceful and regular improvements, and of the maintenance of past improvements, that is to say, extending to the body of the people a direct share in the government of the country, in the management of their own concerns. The contrast is truly

* See Title XI., which provides trial by jury in criminal cases, public proceedings in all cases, and removal of judges in no case whatever without a sentence of the Supreme Court of Appeal, the members of which were also for life. Yet the election of the members of the Legislature is by Titles VII. and X. vested in departmental colleges appointed by the Crown.

striking between the course that has been pursued with regard to this part of the undertaking at the congress and those which seemed more nearly to touch the royal interests. The representative constitution remains a promise to this day; there was little time lost either by the Germanic Diet in enforcing the restrictions upon the press with new regulations* or by the Prussian Government in providing for the rigorous execution of that law in its dominions†.

Let us only pause for a moment to consider how insecure all the benefits must be which such reforms as we have been contemplating are calculated to produce. The king is still absolute; he is indeed restrained by the laws which have been made, but those laws he may alter; and provided he shall only make the alterations gradually, he may with great safety diminish if not abolish all the restraints under which he now exercises his prerogative. But no such alterations are in the least degree necessary. Without changing a tittle of the existing law he is still supreme if he chooses to exert his power in that which is most likely to tempt a bad prince, the oppressing of one individual and favouring of another contrary to justice. So that, as the Emperor Alexander of Russia said to some flatterer who was recounting the advantages which his reign conferred upon his people, and pretending to think that the want of a free constitution could be but little felt by his subjects, "Suppose it all true; still I should only be a fortunate chance that has befallen them." The reforms of Frederick II. have been mentioned; and there was no part of them on which he more prided himself than his judicial improvements. When wishing to make some alteration in one of his villas, he asked a miller to part with his property adjoining the royal garden, and the man refusing, the king reminded him that "he was the master and might take it if he liked." The peasant said, "Oh, I am not to be frightened in that way; we have judges at Berlin:"—an answer which so pleased the monarch that he at once desisted from his pursuit, and altered the plan of his pleasure-ground. So it was a customary saying with him when instructing his judges, "In any doubtful cause between me and a subject always decide

* Act of the Diet 20th September 1819. Art. 4th.

† The Prussian "Edict of Censorship" bears date 18th October 1819, less than a month after the act of the Diet.

against me." Now all this is very well, and possibly most kings in his place would have felt and spoken as he did. But the use of laws, and above all of constitutional laws, is to restrain the princes and great men upon extraordinary occasions, and to make them do always what Frederick did often. Accordingly, the same king gave abundant proofs how much restraints of this sort were required for him as well as for the common run of sovereigns. To say nothing of Baron Trenck, whom he confined for eighteen years in a fortress without ever letting him know what he was charged with, and after he had escaped and been away seven or eight years in foreign service, flung into a dungeon for ten years more, in equal ignorance of his crime—another incident, relative to a miller and to the ordinary administration of justice, may be cited to the same effect. The man had a cause decided against him by the judges, and petitioned the king, who referred the matter back to the same court and received an answer adhering to the former sentence. He then sent some officers privately to examine the place in dispute, and upon their report satisfied himself that the court were wrong. He called the judges before him—abused them—kicked them—threw them into prison—and was only induced to release them by the accident of reading a calm and convincing statement of the case in a foreign journal, which clearly proved that the sentence given was right and that his officers and himself had entirely mistaken the question. The late king of Prussia, too, with all his valuable reforms, and with all his general disposition to act justly and humanely, was enabled, and only by the want of a constitutional body which may be ever open for the examination and redress of grievances, to imprison a learned man, professor in one of his universities, upon some charge of a secret kind, and to retain him for some years in confinement without either trial or distinct accusation. As long as such things can be done, it is a gross attempt upon the credulity and patience of mankind to underrate the practical importance of a regular and free constitution, and to appeal from its constant and invaluable benefit, the security against oppression which it affords at all times and against all men, to the accident of now and then a benevolent or enlightened or just person arising (growth most exotic in the courts of absolute monarchy!) under whose administration tyranny may possibly work less than its ordinary portion of mischief.

The Austrian Government under Maria Theresa and Joseph II. affords abundant instances in illustration of the same truth. In the hereditary German States all representative constitution had long substantially ceased to exist; the prince was as absolute as the King of Prussia in his own dominions, and a large military establishment confirmed this power. The empress-queen and her son after the loss of Silesia set themselves about improving the territory which remained to them. The latter had even contracted a kind of romantic admiration for Frederick II., and his pride during the rest of his life was to imitate the example of the "Philosopher-King." Accordingly, many of his improvements, and those of his mother at his instigation, were admirably conceived, while the greater number were crude and ill digested—difficult to execute—not suffered, even when begun, to be fairly tried—and almost always ending in disappointment from the incapacity or the caprice of a very well-meaning and not ill-informed individual, who, had he acted with the help of his people and under their wholesome control, would in all likelihood have been a most successful reformer. One of his first acts was granting universal religious toleration to his subjects; and it is a little humbling to our national pride to reflect that Joseph carried through this important measure, and thereby gave peace to Hungary, (where the disputes between Catholics and Protestants had for ages convulsed the country and endangered its dependence on his Crown,) no less than half a century before we in England adopted the same just and wise policy, but, because we so long deferred it, not with the same good effects. The emperor and his mother at that period abolished the use of torture in judicial proceedings. They emancipated the serfs on all the royal domains, and a few years afterwards effected the general abolition of servitude. Joseph himself in the early part of his reign won the affections of his people by his personal demeanour; and throughout the whole of it he was singularly easy of access. When he visited his Italian dominions he directed by public advertisement that all might approach him, even the meanest of his subjects, on any matter of business. At Vienna he devoted a day in every week to hearing complaints, declaring "that to do justice was his duty, and that he would perform it without respect to persons." Finally, in a letter to one who had spoken well of him to himself when ignorant of his

person, he avowed that "Joseph preferred being loved as a man far before any homage yielded to the Emperor." Yet these professions of justice and philanthropy were followed within a few months by the plot for the partition of Poland, which a constitutional government would in all probability have prevented from ever being planned, in all certainty would have prevented from being carried into execution; and the same prince lived to be cited as an example of oppression, and to lose the affections of almost all his subjects, while by his faithlessness and tyranny he drove Belgium into successful rebellion. It is quite true that Joseph's nature never led him to acts of individual cruelty, and that he confirmed on his death-bed the humane provisions of his early days; but we have witnessed in later times scenes of blood enacted under his successors, and torments as cruel as the torture which he had abolished, inflicted on the very spot where he had advertised for a free statement of all the grievances of which his Italian subjects could complain. The greatest patriots, the most distinguished nobles, and the most learned professors of Milan, have been condemned by a Secret Inquisition, insulted by a public exposure of their persons at the foot of the gallows, led away captive into a distant land, buried in solitary and noisome dungeons for periods of fifteen and twenty years, while all the remonstrances of the wise and the good in other countries have but served to exasperate the rage of their tormentors.

The course of our remarks has led us to illustrate the evils of unlimited monarchy and the vanity of all securities for the people except popular government, from the history of the German princes, because we were employed in examining the constitution of their states. But all other histories afford equally apposite instances of the same truth. The enlightened Louis XII. of France would pause in his benevolent projects for the improvement of his people, while he sighed to think how surely his successor ("that great Boy" as he called him, who afterwards was Francis I.) would spoil all his work; and even Louis himself injured his country by his Italian expeditions nearly as much as he benefited it by his domestic reforms. Henry IV., again, who really loved his people and sacrificed their happiness to his own humours as little as any absolute prince that ever reigned since the Antonines, was guilty

himself, of occasional excesses which a limited monarch never could have committed, and left his kingdom to be torn with the civil conflicts engendered by the profligacy of his widow and fostered by the weakness of his son.

But if the Henrys, the Fredericks, the Josephs, the Louises—men of great capacity—give rise to such reflections upon the aberrations necessarily incident to individual character clothed with power, and as necessarily pernicious to the country over which that character is suffered to bear uncontrouled sway, we may well expect acts of a more outrageous kind from unlimited dominion intrusted to vulgar tyrants. The Elector of Hanover (afterwards our George I.) a century ago was as absolute in his duchy as he of Brandenburgh; and a Swedish count suspected of an amour with the wife of the prince disappeared, but his body was afterwards found built up in a part of the palace. The queen passed the rest of her unhappy life a close prisoner in a castle. Had this ill-fated princess been brought over to England, her husband's revenge never could have found such a vent. One of the lineal successors to his throne attempted, and attempted in vain, to inflict a far less punishment on suspicions of the like nature. In England he was not allowed, as his ancestor had been in Hanover, to take the facts of the case for granted. He was called on to prove his charges,—with every advantage of power and position he failed to make them good; and the accused party, instead of suffering punishment, gained a victory that shook the throne of her accuser.

Peculiar circumstances tended to preserve the feudal restrictions upon monarchical power in some parts of Germany; and it is necessary now that we shortly consider these exceptions to the more general progress of government which almost everywhere established an absolute authority in the Crown.

In the latter part of the twelfth century the Guelph family was stripped of its principal dominions. The powerful duchy of Bavaria and Saxony (from which the margraviate of Austria had been taken) was now dismembered, and the two duchies of Bavaria and Saxony, of very inferior extent, were formed; a large portion of what had belonged to each during their union being formed into lesser principalities. Some of these became parts or states of the Empire, as Mecklenburgh, Holstein, the

towns of Lubeck and Ratisbon, the duchies made for the Archbishop of Cologne and the Brunswick family (all that was left to the Guelphs)*—some of the Saxon part, as Pomerania, was afterwards united with the dominions of Brandenburgh—and the greater portion of what had been Bavarian, as Styria, Carinthia, Carniola, and Tyrol, was obtained by Austria. The weakness of Saxony and its constant apprehension from powerful neighbours, especially from Brandenburgh, appears to have prevented the prince from ever usurping absolute authority and abolishing the States; but their rights were much more narrow in Saxony than in the two Lusatias, which were transferred, as we have seen, from Bohemia two centuries ago. Bavaria retained no portion of its feudal constitution; but that constitution remained in the duchies of Juliers and Berg, as it had been obtained at the beginning of the seventeenth century, when the duchy of Juliers, formerly consisting of Berg and Cleves as well as Juliers, was dismembered, and Prussia acquired Cleves.

The States of Saxony consisted of three orders: First, that of the Prelates and Princes or heads of certain great houses, who sat in person; Secondly, that of the Nobles, of whom one portion sat in person by right of certain lands if held by nobles of four descents, and the rest were deputies chosen by the other nobles in each district or baillage; and, Thirdly, that of the Towns, which, to the number of a hundred and two, were represented by deputies. These States met once in six years and on the succession of a new Elector. Their influence mainly arose from the right of voting supplies, on the prince's requisition, when they negotiated for the redress of grievances; and the matters agreed on between them and him had the force of laws until the next assembly. During the interval of their meetings there were two deputations or committees—one of forty-two, chosen by the nobles, which named the other, consisting of sixty; the former sat every two years, and only called on the latter to meet upon extraordinary emergencies. Matters of national improvement were chiefly discussed at these meetings. They offered but little resistance to the Executive Government, and were

* The Guelph family only retained, of possessions which had at one time stretched from the Adriatic to the Baltic, its allodial property in Saxony; and this was erected into a duchy for Otho, founder of the house of Brunswick, in 1235. He was grandson of Henry the Lion, the last powerful Guelph.

rather councillors than checks. In Lusatia, especially in the Upper Province, the States were more powerful; for, although constituted in nearly the same manner, they met three times every year without the summons of the prince; in Lower Lusatia they met twice a-year, and with the Elector's leave. No consolidation of the Lusatian with the Saxon Government was ever attempted, and the difficulties of the Elector's position, which the temporary possession of Poland only increased, were sufficient to prevent any successful encroachments upon the privileges of the States in either part of his dominions. When in 1807 the Saxon rulers obtained the royal title and a large accession of territory (the greater part of Prussian Poland), they lost nearly as much on the Westphalian side, and were soon involved in new troubles by the wars that ensued. At the peace of 1814 Saxony was stripped of a great part of her possessions, including Lower Lusatia and half of the Upper Province, which, being acquired by Prussia, lost of course all their constitutional rights.

The establishment of a representative government for the whole kingdom was one of the promises made in 1815, but nothing was done to perform it until 1831, when a new constitution was given, in many respects similar to the old. There are two Chambers: one is composed of princes, heads of certain great families, owners of certain estates, clerical functionaries, chief magistrates of great towns, twelve deputies chosen for life by landowners, and ten landowners appointed for life by the Crown; the other Chamber is composed of twenty-five deputies of towns, as many chosen by the peasantry, twenty by owners of noble estates (which however any person may possess), and five appointed by the Crown to represent the interests of commerce. The right of voting is vested in all owners of real property, whether in town or country, without regard to amount, and every twenty-five voters choose one elector, who has a property qualification; these electors choose the deputy, and also a second deputy, who acts in case of the other's death or illness. The King calls the Parliament together, but it must meet once in three years. It is subject to the decisions of the German Diet; and although the liberty of the press is nominally established, yet it is expressly subjected to the decree of the Diet, which we have already described (p. 501-2).

The Constitution of Berg and Juliers was established by the

union of their States in 1628 and 1636. After that time the Assembly was held at Dusseldorf for the whole of the united duchy. It consisted of fifty-seven nobles representing 293 fiefs in Juliers, and thirty-nine representing 180 fiefs in Berg, with eight deputies from four towns in each duchy. This Assembly had always a deliberative voice, not only in the granting of supplies, but in the administration of public affairs; and however aristocratic its constitution, it had the wisdom to avoid all laws, whether financial or other, which could press on the industry of the towns or favour the owners of the land. The claims of Brandenburgh to the country had all the effects of a disputed succession in preventing the prince from using against this feeble part of his dominions the power which he derived from his Bavarian possessions. From the constant apprehensions which these claims occasioned to the prince, resulted the entire religious toleration granted in 1673 to the Protestants, although the Catholic is the established religion and the reigning family has always been Catholic. The consequences of this free constitution and these liberal principles of administration were very remarkable, and the duchies presented a striking contrast in population, industry, and wealth to Bavaria, notwithstanding all their disadvantages of soil and position. They were erected into a principality by Napoleon in 1808, and he then abolished the slavery of the peasants. In 1814 they became the property of Prussia, and lost, of course, their constitution.

The Electorate of Bavaria, made a kingdom in 1806, has since the peace of 1815 obtained a representative constitution. The States consist of two Chambers,—the one composed of princes, prelates, officers of the Crown, heads of houses formerly belonging to the Germanic Diet, and persons appointed by the Crown either hereditarily or for life, but the life members are never to exceed a third of those who sit by inheritance;—the other Chamber is composed of deputies, one-fourth chosen by the clergy and nobility, one-fourth by the towns, and one-half by the owners of property having no seignorial rights. The Crown is bound to assemble the States once in three years, and the supplies are to be voted for six years, with the power to continue them for six years longer, in case extraordinary and external circumstances prevent the Crown from calling the States together on the last of the first six years. No change can be made in the con-

stitution or taken into consideration by the States unless upon the proposition of the Crown, and the Crown does not give its answer to each proposition of the States separately, but to the whole together at the end of the session. On the other hand, the judges are declared to be irremovable unless by the sentence of a court; all judgments must be accompanied with reasons; and the Crown, although it can pardon and can mitigate sentences, has no power of interrupting a proceeding once commenced.

Wirtemberg had preserved its States until the French invasion in 1806. The Diet consisted of prelates and abbots, with sixty-eight deputies of towns and country districts; and two committees met for ordinary affairs during the intervals of the Diet, as in Saxony. In 1809 Wirtemberg was made a kingdom, and in 1819 it obtained a representative constitution. But the checks on the royal authority are of a nature still more aristocratic than those of the Bavarian and Saxon Constitutions; for the elective franchise is only given to owners of real property worth 200 florins a-year, an income equal to 40*l.* in England; the creation of peers is confined to persons of noble family having an income equal to 1200*l.* a-year in England; there are a number of clerical and patrician representatives also in the Chamber of Deputies, and the Crown cannot create, whether hereditarily or for life, more than one-third in number of the old peers. The Constitution which Napoleon gave to Bavaria, as well as that of Westphalia, gave the Crown the right to name the electors of the legislature; but, except in requiring the members to have a considerable pecuniary qualification, there was no preference given to the nobles. The Wirtemberg Constitution abolishes villenage, but postpones the laws which are to secure the independence of the judges.

CHAPTER XVI.

ITALIAN MONARCHIES.

Arrangement of the subject—Lombardo-Venetian Kingdom—Sardinian Monarchy—Principalities: Parma, Modena, Lucca, Tuscany—Unions with the Papal States—with Naples—Commonwealths of Middle Ages—their aristocratic character—Factions of Guelphs and Ghibelins—their mischiefs—Podestàs—Overthrow of Commonwealths—Rise of Principalities—Peculiarities of Italian polity—Papal government—Temporal sovereignty—Exarchate—Gifts of Pepin and Charlemagne—Spiritual Power—Conflict with the Emperor—Pretensions of the Pope—Concordat of Worms—Papal election—Papal encroachments—Extent of Papal power—Deposition and excommunication—Temporal dominions increased—General power diminished—Resistance of France, England, and Germany—Vicissitudes in Italy—Residence at Avignon—Encroachments of nobles—Parties and resistance—Authority restored—Absolute government established—Ancona, Bologna, Ferrara—Literary flattery—Lessons from these writings—Frame of the Papal government—Leading peculiarities—Election of Pope—Ministers—Congregations — Etiquette — Suspicious spirit — Cameras — Prefectures—Clerical Prefectures—Occasional Congregations—Spiritual Congregations—Delegations, Assessors, Councils, Governors—Consalvi and Pius VII.—Communes—Gonfaloniere, Anziani — Absolute power — Number of priests—Army—Revenue—Practical checks—Vices of the system—Favouritism—Nepotism—Extravagance—Aristocratic privileges—Sacrifice of public interests—Choice of Pope—Changes of policy—Sale of places—Financial system—General reflections.

THE pure or absolute Monarchies which remain to be considered occupy the four peninsulas of Italy, Spain, Jutland, and Scandinavia, with the islands belonging to them of Sicily and Sardinia, Seeland and Funen. Under these heads we shall now proceed to examine them.

The Italian Monarchies may be divided into three classes—the Northern, the Middle, and the Southern; the first comprising Lombardy, Piedmont, Parma, and Modena; the second consisting of the Papal States, Tuscany, and Lucca; the third, of Naples and Sicily. It will be more convenient to begin with the second division, on account of the great importance which belongs to the Roman Government; but it is necessary, first of all, to take a short and general view of Italian history, before applying ourselves to the different monarchies in detail.

Lombardy, or the Lombardo-Venetian Kingdom, consists, first, of the Milanese, which, with occasional interruptions, chiefly during the revolutionary war, belonged to the Spanish and then to the German branch of the Austrian family, ever since the reign of Charles V., when the Sforzas became extinct, to whom it had passed from the Viscontis, the usurpers of this, as of many other republican states in the fourteenth century;—next, of Mantua, which the Gonzagas lost at the beginning of the eighteenth century, after having held it 400 years from their original usurpation;—lastly, of the Venetian States, obtained by the most unprincipled bargain with France during the revolutionary war, and afterwards confirmed by the final settlement in 1814 and 1815. Piedmont, with the Duchy of Savoy, united together since the end of the eleventh century, became in some sort a kingdom when the Grand Duke obtained the Sicilian crown by the peace of Utrecht, 1713; this he soon after (1720) exchanged for Sardinia; and in 1815, by an arrangement as unprincipled as that which extinguished the republic of Venice, Genoa was added to the Sardinian dominions. Parma, Placentia, and Guastalla—which, after ceasing to be independent principalities, were severally united in one duchy, under the Viscontis and the Sforzas successively—had belonged sometimes to the Papal States, sometimes to a Papal prince as a vassal under the See, sometimes to the Crown of France, and, in the course of the eighteenth century, had been alternately annexed to the Spanish, the Austrian, and the French Monarchies; they were again erected into an independent principality for the Empress Maria Louisa upon the fall of Napoleon in 1814, to be vested at her decease in the Duke of Lucca, whose principality will then be reunited to Tuscany, from which it was severed. Modena alone, of all the Italian dominions, remains in the same family which has always held the sovereignty over it since the first usurpation put an end to the republican government in the thirteenth century. The D'Estes, though sometimes deprived of their dominions during the wars by which Italy was for so many ages desolated, always succeeded in recovering Modena and Reggio, although their original possession of Este was early incorporated with Venice, and their first considerable territory of Ferrara was seized by the Holy See at the end of the sixteenth century. The present Grand Duke is son of the heiress of the D'Estes, by an Austrian archduke;

and to him the principality was restored in 1814, after it had been incorporated for seventeen years with the Cisalpine Republic, afterwards called the Kingdom of Italy. Tuscany, which had continued in the family of the Medici for two centuries after their usurpation upon the republic, came, by their extinction (1735), into the family of Lorraine by exchange with Spain; when the Grand Duke Francis became Emperor, in 1745, it continued in his possession, and descended to his son Leopold, who, in 1792, also becoming Emperor, gave it up to his younger son. Having been seized by France, it was made a kingdom, that of Etruria, for the King of Spain's son-in-law, who gave up Parma to the Cisalpine Republic in 1801; but in 1807 it was resumed by Napoleon, and given to his sister Elise in that year as a duchy: in 1814 it was restored to the Grand Duke. Other principalities became, from time to time, united to the Papal States, as Bologna* at the beginning and Ferrara† at the end of the sixteenth century, and Urbino‡ early in the seventeenth. With the kingdom of Naples, in like manner, principalities came to be joined; as, in the eleventh century, Aversa, Capua, Amalfi, Bari, and Benevento (given up immediately in part to the Pope); but, excepting Amalfi, they had not previously been, like those of the North, commonwealths upon whose rights neighbouring chiefs and ambitious citizens had usurped.

In the Northern and Middle Divisions of Italy the towns, almost without any exception, became independent when the power of the Emperor of Germany declined, in the latter part of the eleventh century. They established republican, or rather aristocratic, constitutions, in which there were for the most part two councils—a greater or general council, which decided on questions of peace or war, and on changes in the laws, as well as on the choice of the chief magistrate, commonly termed consul, —and a lesser or special council, called the *Credenza*, or confidential body, which with the consul carried on the government. These bodies were more or less aristocratically constituted in different towns, but in none were they of a democratic construction. Any changes in the constitution itself were reserved for the assembly of the people at large.§ After the towns had thus as-

* 1334, indirectly obtained by becoming protector, but actual sovereignty from 1506. † 1597. ‡ 1631.

§ The error of representing these commonwealths as democratic has arisen from considering their resistance to the barons as a popular opposition to the patrician

serted their independence, although for some time they continued to govern themselves in the Emperor's name, yet this subjection was merely nominal. Two parties now arose all over the country, distinguished by the names of *Guelph*, and *Ghibelin* or *Guibelin*; a distinction which began in Germany, where a contest for the Empire was carried on between a Duke of Franconia, of the Hohenstauffen family,—and a Duke of Saxony, of the Welf, Wolf, or Guelph family. From the period when the Emperor prevailed (1138) the latter became the rallying point for all who had any grievance to complain of, or any resistance to make against the imperial encroachments; and the Lombard cities as well as the Popes, who had thrown off the German yoke together, ranged themselves on the Guelph side with the feudal aristocracy of Germany, while the supporters of the Emperor called themselves Ghibelins, from the town or Castle* (Waiblingen) where his family had been established. These party distinctions first became general among the Italians about the beginning of the thirteenth century, after the constitution of the forty or fifty cities had continued for a hundred years to set at defiance both the power of the Emperor and that of the feudal lords; for, although their government was in the main aristocratic, there was yet in most of them a considerable admixture of popular influence by the appeals made upon important questions to general assemblies, and by the more constant appeals which the leaders of the patrician factions made to the multitude, their followers; and the rulers of almost every city were thus enabled to call forth its whole resources as often as party conflict allowed of a united opposition to any common enemy.†

orders, whereas it was only the resistance of the civic to the rural aristocracy. Even at Florence, where there existed for some ages a positive law excluding all nobles from offices of any kind, the chief power was in the hands of certain wealthy families. The greater council of 300, representing the citizens at large, only had cognizance of matters which had previously been discussed, and sanctioned by the two lesser councils, composed of leading men and public functionaries. Sclopis, while he maintains the democratic nature of the Italian governments, confesses that the whole policy of their legislation was directed to "concentrate in the hands of a few families in each city the entire property of the district."—*Legislazione Italiana*, cap. iv.

* There is some doubt whether it was Waiblingen in the Hartfeld, or Waiblingen near Stuttgart, which was a castle of the family.

† The resources thus possessed by some of these republics may be estimated from the accounts which we have of Milan. It is represented as mustering, in the thirteenth century, 240,000 fighting men and 8000 cavaliers.

But the ravages which party strife made in all directions were truly dreadful. The intrigues of the Romish Church to encourage the Guelphs, and the security in which each town thought itself against all attacks from without, produced in those narrow communities, peopled by proud, dissolute nobles, adventurous traders, and active, excitable, even polished but half-educated men, a dominion of factions unexampled in any other age or quarter of the world. In every town the people were completely divided between the contending parties, bitterly exasperated against one another, marshalled under leaders who did not even affect a regard for public principle of any kind, far less any desire to consult the interests of the whole society; and according as one or the other faction prevailed, the State became Ghibelin or Guelph. Adjacent towns of any consequence, and even villages of scarce any note at all, took opposite sides,* while the inhabitants of each were in like manner fighting among themselves; and thus, for above a century, the history of that noble country is one chronicle of violence and civil war—of hostilities waged by each community against its neighbours, and by the citizens of all against one another. Intrigue mingled itself with power—private with public injury. Individuals were assailed, proscribed, exiled, or destroyed, by the authorities which happened for the moment to have the ascendant. Personal quarrels filled the space which those of faction might chance for an instant to leave vacant; and every incident, how remote soever in its origin from political considerations, became the ground or the occasion of party operations and the cause of civil strife. As an example—and it is taken quite at random—we may refer to the assassination of a young Bolognese nobleman, which armed two great families against each other. They happened to be of opposite factions, but for which it is probable that the crime might have drawn little attention even from those connected with

* The exercise of vengeance on their enemies appears to have been the prevailing occupation of the parties whenever any success was obtained either over the rival faction or the rival state. The instances of cruelty are innumerable, and shocking to every feeling of humanity; but the instances of excessive hatred, shown by impotent fury, are almost equally remarkable, though more ridiculous than disgusting. Sienna decreed that the castle of Menzano should, on being destroyed, never be rebuilt, because of the offence its inhabitants had given. Novarra rased the town of Biandrati to the ground, and made a statute, "*de tenendo destructo Biandrato.*" Milan condemned, in like manner, the castle of Seprio, and ordained that "no one should ever presume to dwell where it once stood." Dante has strikingly painted the civil strife of his times in a famous passage, (Purg. vi.)

the individuals, and certainly would have failed to excite the least interest in the public mind. But one was a Guelph, the other a Ghibelin family; and the whole city, the second in the Roman States, took part with one or other, each person making the cause his own. For forty days the inhabitants fought and butchered one another in the streets and in the houses, till at length, victory declaring for the Guelphs, peace was restored by the banishment and forfeiture of 12,000 Ghibelins. But the evils which the intolerable reign of faction had produced can be best of all illustrated by the unparalleled shift to which most of the states—free states as they called themselves—resorted in order to provide for themselves a government that might be endured. In the thirteenth century almost every commonwealth had a foreign magistrate of the highest rank, called a Podestà, to preside over the most important branches of the administration; in many places over the public defence—in almost all, over the administration of justice:* he was always of noble family, and employed, or as it were hired, for a time, never more than a year, and never suffered to have the least connexion, either by blood or marriage, or even by the intercourse of society, with any one inhabitant of the country.

The defeat of the Imperial or Ghibelin party was, with little variation, general; yet it happened that many powerful families who were so far attached to its principles as to oppose the encroachments of Papal authority, and who had prudently abstained from taking an open part while the struggle was going on most favourably for the Guelphs, silently and gradually acquired an influence almost everywhere when the people were exhausted with the conflicts which had raged so long and so fiercely, and when the other nobles, who, having suffered in them even while successful, could no longer offer an effectual resistance to any usurpations. Thus one after another, by the beginning of the fourteenth century, most of the republics had lost their independence, had become subject again to the feudal lords whom they formerly overthrew, and had fallen under the

* Always where the podestà was not the chief judge, and sometimes where he was, there were other judges also appointed, and always, like him, foreigners. He could not leave the place for some time after his office or hiring expired, in case there might be complaints of his conduct. In places where the contending parties were nearly balanced, there were two podestàs, one chosen by each. The instances of the podestà not being a foreigner were exceedingly rare, probably accidental. Sometimes one acted for different towns, and by deputy where he did not reside.

hereditary dominion of those powerful families, with whom the Popes willingly co-operated, now that the aid of the Guelph party had ceased to be necessary for maintaining their rights against the Emperor, and that the main difference between Ghibelin and Guelph had come to consist in the greater tendency of the latter to side with the people, and maintain the popular spirit against patrician encroachments. It thus came to pass that the commonwealths of which we have above made mention had fallen into the possession of the princely families. That of D'Este held Ferrara, Modena, and Reggio; the Carraras, Padua; the Gonzaguas, Mantua; the Scalas, Verona; and the Viscontis, the most powerful of all, having first obtained Milan, and the greater part of Central Lombardy, extended their dominion by the defeat of the Scalas, and finally, before the close of the century, were possessed of all Lombardy, and part of Tuscany and of Piedmont, with the title of Duke of Milan, sanctioned in 1395 by the Emperor. It was upon their extinction, in 1447, that the Sforzas seized the Milanese.

But though the commonwealths were thus reduced to principalities, their constitutions were not all at once subverted by the chiefs who obtained hereditary dominion over them. At first these were satisfied with acquiring in perpetuity the power possessed for short periods of time by the elective chief magistrate; and they generally left much of the former government unchanged. The municipal councils were still allowed to choose many of the office-bearers; the old usages were preserved; and the legislative power, with the concurrence of the prince, continued to be exercised by the community in its most material branches. The imposition of new taxes, and the distribution of the old, was generally left in their hands; nor was it until gradual encroachment had done its work, facilitated by the possession in each case of other dominions, and the force derived from thence, according to the invariable operation of the imperfect federal union (chap. xv.), that all free, or popular, or even aristocratic institutions were undermined, and their very traces obliterated in some states, while their proper virtue had departed from them in all.*

* Sclopis (*Legislazione Italiana*, App. vi.) gives as an instance of the privileges at first retained by the towns, the customs granted, or rather confirmed and preserved, to Avigliana, in 1354, by Amadeus VI. of Savoy. These include the Credenza

The progress of government and of society in Italy was in most respects the same as in the north of Europe. While the Emperors, first of the Franks, and then of Germany, retained dominion, they appear to have governed originally with the same disregard of the nobles and the people as we have seen Charlemagne showed in his assemblies (chap. xi.); and the accounts which are preserved of the meetings held upon the imperial progresses occasionally made to Rome closely resemble those of his national councils. They took place on the banks of the Po, near Placentia; all the vassals of the Crown were summoned to appear; the prelates, barons, magistrates, and judges also attended; among his vassals the Emperor chose certain councillors, with whom he conferred upon the affairs of the country; he also heard the statements of the prelates and others, but they consisted almost always of complimentary addresses; he then received the complaints of the common people, who approached him carrying a cross for a token that it was as supplicants seeking mercy, rather than men claiming rights, that they asked justice at his hands; the meeting closed with the promulgation of such new laws as he thought fit to enact. It seems clear that these assemblies were much more for the information and assistance which they could afford the sovereign than in order to deliberate upon the measures of government or the course of legislation.* When the Emperor did not proceed to Italy in person, his commissioners (Missi) held assemblies; and they were generally at Christmas, Easter, and Midsummer. The barons had their courts exactly as in France and Germany, under the names of Placita and Malla. Their power increased, as in those countries, while that of the sovereign was diminished. But there were two circumstances in which Italy stood alone, and distinguished from all the other feudal countries: the one was the early rise of the towns and their establishment of popular governments, or governments in the hands of a civic aristocracy, and wholly independent of, and in opposition to, the feudal power; the other was the establishment of the ecclesiastical monarchy of Rome. The former cir-

(or executive council) and office-bearers; the making laws (with consent of the prince or his lieutenant) respecting property and police; the granting and distributing of taxes; exemption from all taxes elsewhere imposed; and rights of chase and fishery.

* Sclopis, *Antica Legislazione del Piemonte*, cap. v. p. 40.

cumstance covered the North and Centre of Italy with a great number of commonwealths, which afterwards became a number, though not so great, of petty principalities, as we have seen. The latter circumstance gave rise to one of the most singular systems of polity which have ever been framed, and exercised a powerful influence upon the secular affairs of Italy, as it did, though in a less degree, upon those of Europe at large.

The Bishop of Rome had, from the earliest times of the Christian Church, possessed great authority among its members, and obtained a precedence over all its other prelates as the first in rank; but he was for many ages regarded merely as the subject of the Emperor, who, when he resided at Constantinople, governed Italy by an Exarch, generally residing at Ravenna. It should seem that the Bishop under the Exarch possessed a temporal barony or duchy in Rome, and in several other districts given to the See.* All these were held, however, originally under the Empire; but when its weakness became apparent, the Romans erected a kind of republic under their Bishop; and the Exarch, far from being able to restore his authority, was himself driven from Ravenna by the Lombards, who then prepared to seize Rome also, as a dependency of the Exarchate. When Pepin, in the middle of the eighth century, had been recognised as King of the Franks, and even crowned by the pontiff, he showed his gratitude by defending him against this attack; and having expelled the Lombards from Ravenna, gave the Exarchate to the See of Rome as a temporal possession.†

The foundation of the Pope's ecclesiastical power was his being patriarch of Southern Italy (including Sicily and the other islands) under the Emperors of the East; there being no metropolitan, he exercised all the provincial and archiepiscopal authority over that extensive territory, and gradually extended his spiritual dominion as his temporal power increased. Charlemagne, however, while he confirmed his father's grant of the Exarchate, availed himself of the influence which the See had already acquired by

* The librarian of the Vatican (Anastasius *apud* Muratori), who wrote in the ninth century, calls it *Sancta Respublica*, and gives as its boundaries, Viterbo on the north, Terracina on the south, Narni on the east, and Ostia on the west; but this must be understood as applying to the period of its rebellion against the Exarch. The Exarchate consisted of the provinces held immediately under the Exarch, and not through dukes and barons. The Pentapolis, or five cities (now called the March or Marquisate of Ancona), held also immediately of the Exarch.—Muratori, iii. pt. 3, p. 156.

† 756.

making the Pope crown him as Emperor of the West,* and bestowed, as we have seen (chap. xi.), valuable rights upon the church, yet never suffered any interference with his authority, but retained the Pope in subjection to himself (p. 389). His feeble successors allowed rapid encroachments upon their prerogative, as has been shown (ibid.); yet the German Emperors more than restored the independence of Charlemagne's times. While their power continued unimpaired, during the tenth and eleventh centuries, extending in Conrad II.'s reign from the Scheldt to Capua, they not only never acknowledged the Pope as their suzerain, or over-lord, but claimed to appoint him as well as the other bishops in their dominions. Henry III., between 1047 and 1057, either appointed or directly caused the appointment of four successive popes, all Germans—Clement II., Damasus II., Leo IX., and Victor II.;† and it had become the usual course for a deputation of prelates from Rome to wait upon the Emperor, and take his pleasure upon the filling up of each vacancy in the Holy See. It is equally certain that at this period the Imperial influence was used to support and extend the Papal power everywhere else; because as long as that power was under the Emperor's control, he benefited directly by each encroachment that it was enabled to make upon the authority of other sovereigns.

But before the end of the eleventh century an entire change was effected by the vigorous policy of Gregory VII. Availing himself of the weak condition to which the Emperor's government was reduced during the minority of Henry IV., and of the more permanent reduction of the Imperial authority which was effected by the establishment of the feudal power, and the independence now everywhere recognised of the German great feudatories or princes, this able, ambitious, and unprincipled pontiff, first while governing under the names of his creatures Nicolas II. and Alexander II., whom he had raised to the See, afterwards when the Pope himself in name as well as power, established the general rule that no ecclesiastical function should ever be conferred by the hands of a layman. This was decreed in a Council which he held, after various less extensive positions had been advanced by himself, and in the nominal reigns of his two predecessors. One of these, called the Decree of Nicolas II.,

* Christmas 800.

† Hildebrand, afterwards Gregory VII., is supposed to have procured this appointment by his influence both with the suffragan bishops and with Henry III.

in 1059, formally declared the right of electing the Pope to be in the seven bishops holding Sees near Rome, and thence called Cardinal Bishops, with the concurrence of the priests and deacons serving the parish churches in Rome, and thence called Cardinal Priests and Cardinal Deacons. The concurrence of the laity is also specified in the Decree; and it adds that the new Pope shall be presented to the Emperor for his confirmation, and to succeeding emperors, provided they shall severally have obtained this privilege. By a subsequent council (the Third of Lateran, in 1079), it was provided that two-thirds of the electors should concur in the choice. The assent of the laity was soon reduced to a mere form, and then altogether dropped; and although the reigning Emperor's (Henry IV.) confirmation had been expressly reserved, yet Gregory, involving himself in the quarrels between Henry and his subjects, speedily went far beyond asserting the papal independence. He openly claimed a supremacy over all the sovereigns of Christendom, as members of a church subject to the See of Rome, and maintained that they held their temporal power under its authority, and at its pleasure.* He summoned the Emperor to appear before him, and answer the complaints of his people. Henry attempted to resume the power which his father had exercised, and obtained a sentence from a Diet held at Worms, deposing the Pope. But Gregory immediately assembled a Council which excommunicated the Emperor, declared his crowns, both German and Italian, forfeited, and absolved all his subjects from their allegiance. Gregory had powerful allies both in the German princes who conspired against Henry, in the rebellious Saxon subjects who openly resisted his authority, in the prelates who were over-

* "Let not the Emperor," says Gregory, in a letter to the German nation, "suppose that the Church is subject to him as a servant; it is placed over him as a mistress" (prælatam ut dominam). The sentence which he pronounced against Henry, in 1076, proceeds thus:—"On the part of Almighty God, I forbid Henry, who has dared to resist the Church, from governing the Teutonic and Italian kingdoms. I absolve all Christians from their oaths taken to him, and I declare it unlawful henceforward for any to serve him as king." It then anathematises him "to the end that all nations may know that thou art Peter, and that the gates of hell shall not prevail against thy church." The sentence is in the form of an address to that saint. Gregory required that Herman of Luxemburgh, whom he recognised as emperor in opposition to Henry, should take an oath of fealty "to St. Peter and his vicar Pope Gregory." Boniface VIII. put the finishing stroke to these pretensions, by declaring all mankind subject to the Pope, else incapable of salvation. "Porro subesse Romano Pontifici, omni humanæ creaturæ declaramus, dicimus, definimus, et pronunciamus omnino esse de necessitate salutis."—Bull, *Unam Sanctam.*

awed by the spiritual power of the Roman Council, and in the multitude who everywhere took part with a pontiff so lavish in his professions of extraordinary sanctity, as well as in his denunciations of the vices notoriously practised by his adversaries, and so ready to trample upon the dignified clergy themselves, the objects of popular dislike.* Henry was so unfortunate, or so mean-spirited, as to yield: he repaired to Italy, and after submitting to the most humiliating penances, obtained absolution; though his haughty tyrant would not even then consent to restore his crown, but gave it to the Duke of Swabia, who had been chosen by the princes during their resistance. A turn in his fortunes, however, enabled him to depose Gregory, and regain his own authority. But the conflict lasted between the Empire and the Pope for nearly forty years, and was only terminated by compromise, the Concordat of Worms in 1122, which provided that the election of bishops should no longer be interfered with; that the investiture by the ring and crozier, the symbol of secular intervention, should cease; and that the Emperor should only confirm the choice made by the ecclesiastics, and give possession, by investiture with the sceptre, of the temporalities regarded as a feudal estate.

The choice of bishops was not restored to the people, lay as well as clerical, from whom it had been taken by the prince. In the course of a very few years after the Concordat of Worms, it came to be vested solely in the chapters of the different cathedrals. In England the same compromise was made by Henry I. as had been made for Germany. In France it was agreed that the bishops should do homage for their temporalities; and Spain had obtained, during the controversy (1088), a permission from Urban II., which she retained ever after, for the crown directly to name the bishops. But in all countries the authority of the Pope was maintained by his acceptance of the bishop being made necessary before the latter could exercise his episcopal functions.

The encroachments made by Gregory VII. upon all national independence were continued by his successors. He had de-

* A letter remains of the Emperor upbraiding the Pope for his conduct. But while it charges him with "trampling the rulers of the church like slaves under his feet," it adds that "by so doing he had obtained favour in the eyes of the multitude"—(in quorum conculcatione, i. e. archiepiscoporum, &c., tibi favorem ab ore vulgi comparasti.")—Ranke, b. i., ch. 1, s. 3, note 3. It thus appears that the papal encroachments upon the sovereign power of the Emperor were everywhere favoured as well by the bulk of the people as by the aristocracy.

posed a king of Poland, and prohibited the election of any successor without leave from Rome; had claimed tribute from France and Spain, asserted the feudal sovereignty of the Holy See over Hungary and Denmark, Croatia and Dalmatia, and required William the Conqueror to do homage for England, which, however, was peremptorily refused. They established their supremacy over Sicily, Naples, Arragon, Portugal, Sardinia: nay, Scotland has been included in the number from the straits to which the arms of Edward I. reduced her; and homage was done for England itself in the reign of John, as well as tribute paid from that time during four reigns, or a hundred and fifty years. In the twelfth, and still more in the thirteenth century, the Pope exercised with little dispute the power of confirming the election of the Emperor. He actually deposed Frederick II. at a council, and succeeded in ruining the fortunes of his family.* He transferred the crown of Arragon to a French prince, but the Spaniards would not avail themselves of the sentence absolving them from their allegiance. He resisted Edward I.'s invasion of Scotland on the ground of it being a Roman fief, but resisted it in vain. He held absolute legislative power in all ecclesiastical matters by the universal establishment of the canon law, and the practice of its courts being confined to advocates under papal authority. He extended the spiritual jurisdiction in so many directions, that almost all important causes not relating to real property became cognizable in church courts, that is by officers directly or indirectly under his influence. He obtained for all clerical persons exemption from the jurisdiction of the criminal courts, an immunity which often gave licence to commit offences. He assumed the power of dispensing with all canonical impediments to marriage, and with promissory oaths of every kind. He not merely exercised a veto on the nomination of bishops, but in many cases thrust his nominee upon the electors, and so constantly and successfully grasped at inferior patronage, that in England all the best benefices were filled by Italians, and a sum far exceeding the royal revenues yearly passed to Rome as the profits of their livings, while some German cathedrals are

* The Emperor Henry IV. was sentenced to deposition no less than five times by four successive popes. Frederick Barbarossa was excommunicated and deposed by Alexander III. in 1160; Henry VI. by Celestine III. in 1191; Otho IV. by Innocent III. in 1212; and Frederick II. both by Gregory IX. and by Innocent IV. But this last is the only one of those instances in which the sentence was ultimately effectual to its purpose.

mentioned in which the prebends were almost all thus filled; and in France, St. Louis vainly issued his edicts against such encroachments. Finally, he taxed the clergy in every country, and dealt with ecclesiastical property so violently, that it is calculated to have yielded him in England alone, during a few years, a sum equivalent to no less than fifteen millions of our present money.

The extent of the Pope's temporal dominions was considerably increased during this period of his enlarged spiritual authority. At the beginning of the thirteenth century Innocent III. acquired the marquisate of Ancona and duchy of Spoleto, which, though they had established for themselves republican (or rather aristocratic) constitutions, and continued so to be governed until the time of Clement VII., three centuries later, formed, nevertheless, part of the Roman states. The rich inheritance, too, of the Countess Matilda came, about the same period, to the see, by her gift; and though the papal claims to those portions of it which were held as fiefs of the Empire, Modena, Mantua, Parma, Lucca, were never allowed, yet her allodial possessions, forming what is now called the Patrimony of St. Peter, and including the country from Rome to Bolsena, with the coast from the mouth of the Tiber to the Tuscan frontier, came at once to the see, whose territory thus extended entirely across the Peninsula, from the Mediterranean to the Adriatic. At a much later period Ferrara (1597), and Urbino (1631), were added, as we have already stated.

But the real power of the Pope in Europe had been rapidly declining ever since the reign of Boniface VIII., at the close of the thirteenth century. The pretensions of that pontiff and his immediate predecessors had become intolerable to both prince and people. The feudal aristocracy was everywhere losing ground, and the power of the crown becoming extended and consolidated. The scandalous rapacity of individual popes, the gross simony to which it gave rise, the notoriously profligate lives which some of them led, all combined with the increasing knowledge of the times to shake their authority, and excite a general resistance to their claims. Their removal from Rome to Avignon (1305), where they remained above seventy years, and their consequent loss of influence in Italy, exceedingly encouraged this spirit, by weakening their authority. No sooner had they resolved to return than a double election gave rise to the great

schism in which the Popes of Rome and of Avignon divided both the Church and the Catholic States for nearly forty years, and which was only terminated by the Council of Constance (1414) publishing a decree that moderated the papal pretensions and laid the foundation of reforms in the church. The Reformation, which followed a century later, completed the check to the Romish supremacy, and while it led to an improved system within the church itself, and thus saved from destruction the dogmas of its creed, as well as the rules of its discipline, put an end for ever to any apprehensions that might still remain of its dangerous ascendancy in the temporal affairs of the world.

Whether England or France took the lead in the then successful resistance to the Pope's encroachments, has frequently been made the subject of dispute, but without any just ground; for the course taken in each country was different as were the circumstances that existed in each. The direct contest with Rome began in France, Boniface VIII. having asserted his prerogative over Philip the Fair, whom he treated as his subject, and forbade to receive the *regale*, or profits of vacant sees, while he summoned the French prelates to attend a council at Rome for the correction of their sovereign. Philip ordered the bull to be burnt; prohibited his bishops from obeying the summons; assembled the States General, which were for the first time attended by deputies from the towns; and obtained from them a stout declaration that the crown was independent, and that the Pope had no right to interfere with its prerogatives. They also granted him supplies for military operations; and, marching a force into Italy, he surprised the Pope, took him prisoner, and pillaged his effects. These things happened in 1302-3, half a century before the Statute of Provisors, passed in the 25th of Edward III., made it penal to obtain presentations from Rome, and vested in the crown all presentations of the Pope's nominees by spiritual persons; nor was it till fifty years more had elapsed that the statute of Præmunire was made, in the 16th of Richard II., for the punishment of such as brought over bulls of translation from Rome.

It is true that Edward I. had disregarded the Pope's interference in behalf of Scotland, at the beginning of the century, and that the barons in the Parliament of Lincoln (1301) had asserted that they would not suffer the king to relinquish the independence of his crown, were he so inclined. But this was

added by way of protest, while Edward was in the act of arguing to convince Boniface of his title to the Scottish crown; and that pontiff, while he asserted, with an unparalleled absurdity and effrontery, his right to Scotland as a fief, had laid no claim whatever to England. It is also to be borne in mind that Edward continued, during his whole reign, though irregularly, to pay the thousand marks of tribute to the Pope given by John, and that he had the extreme meanness, as well as profligacy, to apply for absolution from the oaths he had sworn to observe the Great Charter and the Charter of the Forest. That some steps had been taken in England to curb ecclesiastical encroachments, even before this period, is unquestionable. The Constitutions of Clarendon, in Henry II.'s reign, made to define the power of the spiritual courts, and secure the jurisdiction of the civil tribunals, were the principal cause of the king's quarrel with Thomas-à-Beckett, and with the Pope, who supported that prelate. But the papal authority rather gained than lost by the struggle. In truth the earliest of all the proceedings to resist the power of Rome were those of the Emperor, to which we have already referred; and in the period that elapsed between the quarrel of Philip the Fair, in France, and the statute of Edward III. in England, the Diet of Frankfort expressed its firm resolution to withstand the papal encroachments in a remarkable decree (1338), occasioned by Clement VI.'s furious denunciation* of the Emperor. It is there declared that the imperial crown has no superior under heaven, and that whoever shall advisedly assert the necessity of papal confirmation to an Emperor duly chosen by a majority of the electors shall be deemed guilty of treason.

Thus it should seem that, although in England steps had been taken, earlier than in any other country, to restrain the clerical jurisdiction, and although those restrictions were, in process of time, rendered much more effectual there than anywhere else, yet the assertion of national independence, and the open and decisive resistance to the direct encroachments of Rome, were made at a far earlier period both in France and in Germany.

* This frantic Bull, exceeding all that the Gregorys and Bonifaces had ever done, calls down specific curses on the Emperor, requiring Heaven to "strike him with madness and crush him with thunder; invoking St. Peter and St. Paul to visit him with their wrath in this world and the next; calling on the earth to open and swallow him up; and praying that his children may be destroyed before his face by his enemies." Such a piece is believed to be without a precedent or a copy even in the records of the Roman chancery.

The power of the Roman Government over the principalities which at different times fell under its dominion, varied according to the condition of the central authority, and the circumstances of the communities thus held in subjection. The republican institutions were gradually disused after the annexation, where, as in Ancona, Spoleto, and even Bologna, the acquisition was made in early times; the civic aristocracy ceased to have its former ascendant, and the government became in substance absolute, though with the preservation of many old forms of a commonwealth. In others which came later into the Pope's possession, as Ferrara and Urbino, all remains of popular government had previously been destroyed. But while the Roman administration was weakened by the schisms in the church, and especially while the seat of it was transferred to Avignon, the spirit of resistance was roused both in the provincial communities and in Rome itself. The want of all vigorous government had encouraged the noble families to resume their power, and their selfish and factious contests might be truly said to deprive men of all the benefits of society, while they remained subject to its restraints, and were enduring worse mischiefs from lawless anarchy than the savage state is exposed to. Nicholas Galvini, commonly called Rienzi, a man of some popular talents, and educated above his station, but who proved himself wholly incapable of sustaining a great part, headed an insurrection which was for a time successful; and it seemed as if both the people of Rome and of the rest of Italy were about to assume the direction of their own affairs, and to restore the republican government with the central authority of ancient times. But both in this and in a subsequent attempt to curb the aristocracy, it appeared that neither the leaders had sufficient virtue, moderation, and firmness, nor the bulk of the people sufficient determination to gain any permanent advantage over their patrician oppressors, much less to subvert the arbitrary power of the Pope, whose legate soon resumed his former authority in the capital. The noble families in the provinces profited by the temporary feebleness of the government to obtain the most unbounded sway, and reduce the Papal influence there to a mere name; but the restoration of the sovereign's residence to Rome, and the vigorous administration of several successive pontiffs, enabled them again to assert their authority; and the See had at the beginning of the sixteenth century regained its former power, not in the

capital only, but in all the other cities. It will illustrate the history of the Papal Government if we advert more particularly to the manner in which it became firmly established in the three most important provinces, Ancona, Bologna, and Ferrara; and this inquiry will afford an opportunity of correcting the false views sometimes given of the governments which the usurpations of the See overthrew; governments which could only be made the subject of any commendation by the operation either of great ignorance or of sordid interest, perhaps of the worst kind—that of literary men seduced from their duty to their country, and their love of truth, by the blandishments of court favour, the patronage of tyrannical princes, or of profligate nobles.

The March or Marquisate of Ancona was, at the beginning of the thirteenth century, annexed to the See by Innocent III., who, having driven away the Emperor's governor, succeeded to the same authority, little more than nominal, which the latter had possessed; nor was it until the civic constitution of the towns had fallen into decay that a vigorous government was established. When the Papal-power was enfeebled in the following century, the nobles acquired their former superiority. Thus at Ancona, the only town of first-rate importance, the direction of all affairs was vested in a select number of their body, called Anziani (or senators), the name used in most of the Italian towns; they were chosen by lot; and so the aristocracy engrossed the whole revenues as well as offices in the community. Above a hundred years elapsed after the Pope's return to Rome and the restoration of his general authority, before any material change was effected in the position of Ancona, which, however, by its increasing commerce, and the disproportionate share of its taxes that came into the Roman treasury, being little more than a sum by way of acknowledgment, while the nobles appropriated an ample revenue,* mightily tempted the ambition or the cupidity of the pontiff. Accordingly Clement VII., having, under pretence of alarm at the progress of the Turks, built a fort and garrisoned it with troops, a sudden movement of an additional force in 1532, under a military prelate, Della Barba, of some capacity and no kind of scruple, enabled him to seize the senate-

* 50,000 scudi a year, equal to as many pounds in this country at the present day. As the population of Ancona does not now exceed 30,000, it was probably then not greater than 20,000. It is therefore difficult to suppose that so large a sum could be raised unless much of it arose from customs levied upon imported goods consumed elsewhere.

house, expel the Anziani, banish the principal nobles, and after making a severe example of some whom he suspected of intending resistance, to establish the absolute dominion of the See. The power thus acquired was exercised by a legate, but the people were restored to the right of filling offices, of which the patricians had long deprived them. This success was not confined to the March of Ancona. A few years after (1540) Perugia having, with the concurrence of the Colonnas, made some opposition to a salt duty imposed by the Pope, he took the opportunity of sending the same Della Barba to reduce it; and after some vindictive proceedings, all remains of the aristocratic institutions were destroyed. The rest of the towns, and the barons in other places, were dismayed by these successes. One after another they yielded up their privileges; and the dominion of the See was thus generally and finally established.

This fate had befallen Bologna and the province of Romagna nearly half a century earlier. That city, like the other towns of northern Italy, had become independent of the Emperor during the long contest of the investiture carried on with the Popes. In 1112 Henry V. acknowledged its independence, and granted it a charter, which gave the citizens the command of their militia and the choice of their magistrates. The consuls, the chief of these, could only be taken from among the nobles; the judges were to be approved by the Emperor; and the country districts were to be under the government of the town. Of the feudal nobles in the surrounding territory, some sought protection, after the custom of the times,* by enrolling themselves as citizens, and others were reduced to subjection; so that the whole country now called Romagna became part of the government. In the latter part of the thirteenth century, the fierce contests of the contending factions, after producing incalculable misery to the community, led to calling in the aid of the Pope. Nicholas III. was applied to by the Guelphs, and having mediated between the parties, was acknowledged as suzerain. In 1334, however, the tyranny of the legate, the Papal lieutenant or governor, brought about a revolution; and a wealthy family, the Pepolis, who were its leaders for some years, ended by selling the town to the Viscontis. A century now followed of alternate tyranny under that

* As when the feudal lords were strongest, the towns sought protection under their castles, so in Italy, when the towns and their factions domineered, the feudal lords were fain to seek their safety in becoming citizens.

family, under the Papal legates, and under popular anarchy; but the family of Bentivoglio then obtained the chief power, and governed in the Pope's name until the year 1506, when Julius II. dispossessed them, and after a struggle of a few years, established by military force the absolute authority of the Roman See. He left the appearance of a constitution; for the senate named by the Pope had the appointment of the inferior officers, the power of coining money, and the management of the revenue; its members, moreover, held their places for life. On this footing Bologna remained till the year 1796, when the French took possession of it, and annexed it first to the Cispadane, afterwards to the Cisalpine republic; and it continued to form an important part of the kingdom of Italy until the fall of Napoleon. In 1815 it was restored to the Pope, and is now, like the other provinces of the first class, governed by a legate.

In the twelfth century, Ferrara, a fief of the Roman See, having like the other Lombard towns become independent, had likewise become subject to the influence of a powerful family, the Adelavdis; and the last of these marrying a D'Este, the citizens in 1208 chose his son lord or chief, with power to name his successor. This is supposed to have been the beginning of a practice which became so general that hardly a commonwealth could be found which had not given itself a master at some time or other. The D'Estes governed Ferrara for four centuries; and the reign of the last of the family, Alphonso II., having been distinguished by the encouragement of the arts, and still more by the patronage of some literary men, the dynasty has been indiscriminately praised, the happiness of the country under its sway extolled, and the transfer to the Pope lamented as a grievous calamity. Let us see what the fact was.

Not only had the D'Estes entirely annihilated the municipal privileges of the citizens, but they had neglected the public works, upon which depended the existence of some districts, and the prosperity of all. The harbours, Volana and Primaro, were choked with mud and ceased to be used. The canals for irrigation were in disrepair. The dykes were suffered to decay, and frequent inundations were the consequence. This was ascribed to the dukes employing to work on their own villas the labourers belonging to the Po navigation. Montaigne,* who visited Ferrara in 1580, extols the fine streets and palaces of

* Journal du Voyage de Michel de Montaigne (published 1774).

the town, but describes the country as more desolate and unpeopled than any traveller has ever seen it in later times. The taxes under this family were excessive, and levied tyrannically. All contracts, even loans, paid duty. Every thing that entered the town was tithed by the Duke. Oil, salt, even flour and bread, were subject to monopoly, and could only be sold by the ducal agents. With a population which could not have exceeded 200,000, for it is not more at this day, a militia of 27,000 was enrolled; and Alphonso II. carried 4000 regular troops to the assistance of the Emperor in Hungary. It is needless to add that this senseless proceeding had no connexion with any interest of his people; but he had personal reasons for courting the Emperor, under whom he held Modena and Reggio, and from whom he was busily occupied in obtaining a new investiture with power to name his heir, having no hopes of a family himself; and he had also married an Austrian princess. The severest laws were made to preserve the game, which even nobles were only allowed to kill a few days in the year, and then under restrictions. One morning there were seen exposed in the market-place the bodies of six men who had been hanged, and pheasants were tied to their feet, for the purpose of showing that their offence was having killed those birds in the Duke's preserves. Nor was it the common people alone whom the tyrants oppressed. Assassins had been sheltered on the estate of the Contrarios; the Duke demanded them; the head of the house put them to death and delivered up their bodies. He was invited to an audience; he went, and the Duke had him secretly murdered. The pretence set up by the courtiers was that this was only an execution performed in private to save the honour of the family; but the Duke himself affected to say that Contrario had died of apoplexy. The fact was that the body showed plain marks of violence, and it was also the fact that the young man being the last of the wealthiest as well as the most ancient family in the country, its whole possessions became by his death the property of the Duke.*

The court of Ferrara was among the most splendid in Italy. A continual round of amusements, and those of a very refined description, occupied the lives of all. The best artists were en-

* It must be observed that the person assassinated in the first instance was a Gonzagua, a connexion of the D'Estes. But for that, it is probable that not even a pretence against the Contrarios would have been set up by the demand of the assassins.

couraged; the first poets patronised; and men of letters were employed both as ministers and as envoys. Tasso, whose verses Alphonso condescended to correct, has not only praised the whole family with rapturous enthusiasm in his smaller pieces, but has celebrated the court in his epic poem; and Ariosto has described it as the great ornament of Italy, not only for its palaces, but for "its noble pursuits and admirable morals."* By a severe retribution these flatteries were afterwards punished, in one, at least, of the illustrious sycophants. A caprice of the tyrant upon whom he had fawned consigned Tasso to a dungeon for seven years of his life.

The pampered and jealous temper of Alphonso made him, in the true spirit of a despot, defer his nomination of a successor till it was too late. The unprincipled intrigues of his sister, the successor's feeble character, and the popular hatred which the domination of the family had justly excited, enabled the Pope, by the mere force of an excommunication, to seize the principality as a fief which fell to the lord for want of heirs. (1598.) The remnant of the D'Este family ended their reign by plundering the palaces and archives as far as they were allowed time before their retreat to Modena; and the Pope began his government of Ferrara, now become a legation like Bologna, by both promoting a number of nobles in his service and in the church, and even by restoring some semblance of their former rights to the citizens. A council was formed of three classes; the higher nobles to the number of 27, the inferior nobles and leading citizens, 55; and the trades, 18. All these places, however, were filled by the Pope's nomination; and the offices of which the Council were allowed the appointment, as those of the judges and the Podestà, were bestowed by the highest class of 27 only. At first a seasonable relief from the taxes rendered the new administration popular; the nobles, however, took umbrage at the ecclesiastical functionaries. To check the malcontents, the expedient which had succeeded at Ancona and Perugia was adopted; a fort was built, and in the quarter formerly devoted to the court. From that time Ferrara was under the absolute dominion of the See, and all who could leave it followed to Modena the expelled family, now become again popular, at least with the upper ranks, by the new oppressions of their conquerors.

* "Bei Studi e Costumi egregi." (Or. Fur. xxxv.)

The history of Ferrara is thus calculated to read a lesson both of the mischiefs arising to a people from the loss of their liberty, whether to an aristocracy or to a prince; of the little reliance to be placed upon the panegyrics pronounced by courtly writers as an evidence either of princely merit or of public prosperity; of the fatal influence which the Imperfect Federal Union exercises both upon the rights of nations and the administration of their affairs; and of the trifling interest which a community long suffering under the despotism either of a family or an oligarchy has in preserving what is called its national independence. If that independence be not used to restore its rights and its prosperity, the mere change of masters becomes little more than a change in forms and in names.

We are now to examine the system of the Papal Government; and although it has been usual to represent it as the most complicated of any known in modern times,* it should seem that this character rather applies to the details of its administration than to its structure. Those details, no doubt, must needs be considerably involved, because the sovereign unites in his own person a threefold capacity. He is Bishop of an important diocese, Primate of the whole Romish Church wherever established, and a temporal Prince. But his government in each of these capacities is sufficiently simple as regards its constitution and its limits; the constitution is that of pure, absolute authority; limits there are none. The peculiarities which distinguish him from all other monarchs are the nature of his election to the throne, and the religious supremacy which he possesses.

We have already seen that as early as the Pontificate of Nicholas II. (1059) the manner of the Pope's election was fixed by the decree of a Council; and that the decree of a subsequent Council (1079) required two-thirds of the voters to concur. The Cardinals are either Bishops, Priests, or Deacons; in Nicholas's time there were seven of the first; the other two orders had not attained their full enjoyment of the privileges belonging to the rank of Cardinal. Now there is no difference between the three ranks. All are appointed by the Pope, and for life. Since the time of Sixtus V. (1587) their number has been limited to seventy; that is six Bishops, two of the original sees having been con-

* Tournon, Etudes Statistiques sur Rome, ii. 20. This author was Roman prefect for many years during the French occupation, and his book is one of great authority.

joined; fifty priests, and fourteen deacons; but there are generally some vacancies left in those numbers. Upon the Pope's decease an interregnum takes place, the Chamberlain (Cardinal *Camerlengo*) exercising the supreme power until the funeral, on the ninth day; and then until a new election the Cardinals exercise the power by turns, three each day, called *Capi d'ordini*, there being one Bishop, one Priest, and one Deacon. On the day after the funeral the whole Cardinals assemble in what is termed the *conclave* (or private chamber); they are inclosed in one of the palaces, generally the Vatican, prepared for their reception, and each has his secretary and two servants to attend him. They are shut up until they agree, by the requisite majority of two-thirds, upon the choice of a new Pope; and it is understood that they are to have no communication with any person out of the conclave, although Spain, France, and Austria claim the right to communicate with them, and are allowed each to put a veto upon one candidate. During the vacancy of the See, the Cardinal Camerlengo has the privilege of coining money in his own name and stamped with his arms; he also takes possession of the palaces, but in the name of the Apostolic Chamber.

The Camerlengo holds his office for life, and is the only public functionary who does, if we except the Cardinals and other ecclesiastical dignitaries, who can only be deprived for offences. He has the superintendence of the economical department, being chief of the Apostolic Chamber, which is composed of twelve Prelates, the Treasurer-General or Finance Minister, and others, and has the direction of all that relates to manufactures, navigation, roads, the coin, and the subsistence of the people. But the power of this officer is very inconsiderable, the Pope of course preferring those functionaries appointed by himself and removable at his pleasure.

The chief of these is the Cardinal Secretary of State, generally one, though sometimes two, but one is always understood to be the confidential minister, having commonly been a personal friend and appointed on the Pope's election; he is seldom or never changed. He presides over the *Sagra Consultà*, a college of cardinals, prelates, assessors, and physicians, instituted by Sixtus V., which has the administration of all the states excepting Rome and its district (the *Commarca*), naming the governors of provinces and towns, instructing them, and acting as a Court of Appeal in all criminal cases, except only such as come from

Rome and the Commarca. He also presides over the military congregation, which is composed of a Prelate, called Assessor, and of retired officers of the army.

Subordinate to the Secretary of State, but of great power and authority, is the Governor of Rome, always a Prelate of high rank. To him is committed the police of the capital, and he communicates directly with the Pope. He possesses the power not only of arrest, but of punishment. With the concurrence of two or three inferior magistrates of the congregation or college over which he presides, he can inflict capital punishment, and he can proceed without the usual formalities in all cases where the penalty is condemnation to hard labour. In all measures of police, a large and an ill-defined head, he has uncontrolled power; and his province extends over the Commarca as well as the city.

The Secretary of State, the Treasurer-General, and the Governor of Rome, are the persons of real power; that is, they are those to whom the Pope generally leaves the chief conduct of his government. They all transact business with him directly; all exercise judicial as well as administrative functions. Indeed, this is the vice of the whole papal system, both in Rome and the provinces; all bodies and all officers who have any political powers have also judicial authority.

Next to the three great officers are three others of high rank and of important functions; the Auditor, Auditor of the Chamber, and Major-domo. They are the household officers of the Pope; are prelates, and have the same privileges with the cardinals in their equipages, a thing much valued at Rome, where etiquette is more studied than in any country except China.* The Major-domo, or steward of the household, is always made a cardinal upon quitting his office. The Auditor (*Uditore Santissimo*) decides all causes in which the appeal lies directly to the Pope.

The system of government, or rather of administration, is this. Every functionary of eminence acts with the congregations or

* The right to wear red on different parts of the dress, and to have red carriages, is defined. So of the right to have lace, and certain ornaments to the horses, as well as certain liveries. Precedence disputed among families has at various times thrown the country into confusion, and been made the subject of papal decrees. The right to have one or both leaves of the door opened on entering the papal chambers is another matter of much estimation. So a most absurd and inconvenient right of making a person's inferior stop his carriage when passing. Ranke (b. viii. s. 7) says he has seen a MS. treatise upon the right to this mark of respect.

colleges which have the management of the several departments; and these are composed of cardinals, prelates, assessors, clerks, and a secretary, who is always in direct communication with the Pope; so that the sovereign directs the proceedings of each congregation, beside naming its members; and even the decision of the body would not bind the minister, much less his master, for he rather takes aid and counsel of the congregation than acts under its control. Yet though such is the letter of the law, the practical result is that the opinion of the congregation has weight, and sensibly influences the conduct of the government; hence, the Pope is careful to know from day to day all that passes in each department, as well as to influence their decisions; and this he effects through the secretaries, as well as the higher ministers.

There were originally seven Congregations, and Sixtus V. added eight, six of which were for secular affairs. The most important are the Buon-Governo, Sagra Consultà, and Camera Apostolica.

The Buon-Governo consists of a cardinal prefect, with twelve or fourteen others, some prelates, and a secretary. It superintends the administration of the Communes and country districts, and decides upon appeals as to all offences connected with their revenues and expenditure; but it also takes their part against any encroachments, and is thus often found in conflict with the ministers upon matters relating to local interests.

The Sagra Consultà has been already described.—The Camera Apostolica, of which the Camerlengo is president, has the decision of all questions arising between the State and the farmers of the revenue, or other public debtors. It is composed of twelve prelates, with a number of clerks (*Chierici di Camera*). The Treasurer-General is always a minister, and of real weight, having the Pope's confidence. Under this Camera are the several prefectures, each having one of the Chierici at its head. These prefectures are of various kinds; that of the *Annona Frumentaria*, which has the superintendence of granaries, farmers, and bakers, and used formerly to interfere with these branches of industry to the extent of giving or withholding permission to sell crops, and fixing the price of bread; the *Annona Olearia*, which exercised the same powers as to olives and oil; the prefecture *della Grascia*, which superintended meat and other articles of subsistence. But of late years these functions have

been reduced within a narrow compass, since men have become convinced of the absurdity of such interference, and the impossibility of making it effectual, except for mischief. The prefecture of the *Ripe ed aque interne* has the superintendence of the waters of Rome, there being a separate college *delle aque*, composed of cardinals, prelates, and a secretary, to manage all rivers and aqueducts out of the city. Under the Apostolic Chamber there also are prefectures for the streets, prisons, mint, and other departments, each having one of the Chierici at its head.

The Economical Commission, or congregation, nominally under the Camerlengo, but really under the Treasurer-General, consists of other cardinals, the Governor of Rome, and a prelate the secretary. It is a superior council of finance for Rome and the Commarca; but it also has a general superintendence of the whole papal finances.

To the general rule of all administrative powers being exercised by the ministers in the several colleges, there is one exception, that of the Post-office, where there is but one chief, and he always a layman, generally a prince or noble of high rank, and acting immediately under the treasurer. This is the only civil office of any importance which priests do not fill. Formerly they held all but the most insignificant places; and although there are now more laymen employed, the posts of rank, emolument, and influence, are still exclusively in clerical hands. The Senator is, perhaps, an exception, but only as regards rank; for his jurisdiction is confined to the most trifling causes, and he is only employed as an empty pageant representing the senate, which has no longer any other existence. The prelates, who with the cardinals engross all important offices, are generally from two hundred to two hundred and fifty in number.

Beside the regular congregations, the Pope names occasional ones for special purposes. Thus, when in 1816 the Constitutional Code was framed, and there was a new arrangement proposed of the land-tax, a valuation in detail became necessary of all real property. A congregation of the *Cadastre* was immediately appointed to prepare the new scale of taxation after examining the whole matter. The Constitution itself was prepared by another congregation. These special and temporary congregations resemble our Commissions of Inquiry, and only report to the different departments with which they are connected.

The spiritual administration is carried on in like manner by

ministers, with congregations or colleges to assist them. Of these ministers there are six, the Uditore Santissimo being the chief. He examines the titles of candidates for bishoprics, and generally whatever the Pope refers to him; he enjoys his most intimate confidence; and having the decision of causes appealed to him, may be said in some sort to act as his Chancellor. The spiritual colleges are various; the most important are the Inquisition, of which the Pope himself is president, and which consists of twelve cardinals, and a prelate assessor; the *Propaganda Fide;* and the *Indice,* which has the censorship of the press, an office exercised with much jealousy. In a state constituted like the Roman, where the hierarchy is identical with the monarchy, and the government may in some sort be deemed a theocracy, the pervading influence of spiritual considerations is easily traced. Thus, for example, when an academy for literary pursuits is formed, the first step must be to obtain high clerical countenance; The question under what saint it shall be placed as patron and protector comes next, and occasions the same difference of opinion as more practical points would elsewhere. There are meetings held on church festivals, and exhibitions of poetry and of eloquence, often displaying great learning and ability, in eulogy of some saint, or in commemoration of some passage in Gospel history. So all the establishments under the government are conducted with extraordinary attention to religious observances. The utmost strictness is maintained in attending to the ordinances of the church, and a care shown to avoid all possible disrespect towards its dignitaries as well as its institutions, which often borders upon the ludicrous.* The alarm occasioned by heresy, however, is in these times far less than the fear of sedition, and chiefly of that which, the Italian character being somewhat prone to it, the governments of Italy all hold in especial abhorrence—the machinations of secret societies. Nothing creates more alarm than the name of a Carbonaro; and whatever infractions of personal liberty have of late years been committed, have, it is believed, borne reference to the suspected proceedings of this sect, the existence of which in the greater part of Italy is with many a matter of doubt.

* In reciting the celebrated passage of Dante, "Count Ugolino," at one seminary the word *Arcivescovo* was directed to be omitted where Ruggiero is named. To leave out Ruggiero would have been inconvenient on account of the rhyme; but some other title was given him, either his Christian name or a family appellation, to avoid mentioning that he was an Archbishop.

The whole of the Papal States, exclusive of Rome and the Comarca, are divided into seventeen provinces or delegations, each of which is administered under a governor. Bologna, Ferrara, Forli, and Ravenna, are usually governed by cardinals, called Legates, the governments being termed Legations. Strictly speaking, the Legate represents the Pope as the Ambassador does the Sovereign; and the Delegate is only a deputy. All Delegates are appointed by the Pope, and have each two Assessors and a Council or Congregation, also named by him, to assist them. The Council in the greater delegations consists of four members, two belonging to the chief town, and two to the rest of the province; in the second class of delegations the Council consists of three, of whom two belong to the chief town; and in the third class it consists of two, one of whom belongs to the town. But Bologna is excepted from this rule, and all the four councillors are taken from the city. The councillors hold their places for five years. Although named by the Pope, they have only a voice in advising the delegate, who may follow their opinion or not, as he pleases; but their votes are required to be recorded, with their reasons, in each case, and the whole, with an account of the oral discussion which took place, must be transmitted by the delegate to the Secretary of State at Rome. This plan, which has been followed with admirable effect in our East Indian settlements, appears, in the case of distant governments, absolutely necessary for insuring full discussion of each matter, and maintaining a control over the governor, without impairing the energy of his executive functions. But in the case of provinces a day or two's journey from the seat of government, it can be productive of little benefit, and is only one among many indications of that jealousy and suspicion which forms so marked a feature of the whole Papal administration.

Each Delegation is subdivided into Governments, with Governors or Sub-delegates, who are under the immediate authority of the Delegate. While the councillors are required to be of the Delegation, the Governors and the Delegate's Assessors are required to be strangers; contrary to the principle adopted in France, where the Prefect must belong to some other Department, but the Sub-prefect may be of the Sub-prefecture itself. The appointment of governors in the western and southern provinces, where baronial jurisdiction was preserved after the restoration,

by the constitution of 1816 was vested in the barons, subject to the approval of the Secretary of State; but the barons were also required to allow them a salary, and to provide for the other expenses of local administration, such as the police force, while their governors were entirely subject to the authority of the delegate, and were deprived of all jurisdiction in cases where the barons were interested. Hence many barons surrendered their right, and an edict of the Pope in 1824 finally took away all that remained of the baronial power. The feudal rights and services of every other kind had been abolished during the French occupation, and the edicts of 1816 confirmed this abolition without any compensation,* as well for the western and southern delegations, as for Bologna, Ferrara, and the Marches.

The civil jurisdiction is in the hands of the governors of the country districts and in those of the assessors in the chief towns, without appeal in smaller matters; in others, with appeal to the higher courts. There are four Appeal Courts: one at Bologna, and one at Macerata, for the northern and eastern provinces; two at Rome for the other states. Those at Rome are the Apostolic Chamber and the Rota. The latter has extensive jurisdiction, and is composed of twelve prelates, of whom, by a singular anomaly, nearly half are named by foreign powers;—by France, Germany, and Milan, one each; by Spain two, and by Tuscany one alternately with Perugia. The rest, like all the other judges, are appointed by the Pope. An equally anomalous and a very pernicious course prevails in the proceedings of this high court. It gives judgment, with the reasons; and these being communicated to the parties, they may have the sentence reviewed; nor does it become final until two successive judgments are given for the same party—a source of endless litigation and uncertainty.

In criminal cases the Governor has jurisdiction, subject to appeal, for lesser offences; and the Court of Appeal is composed of the Delegate, his two Assessors, a Councillor, and an ordinary Judge. This Court has also exclusive jurisdiction in the first

* The words of the Edict (Constitution by Motu Proprio) are most strong and express. A full enumeration is made of rights and services, and all royalties, whatever be their title or the usage, are abolished, "without any claim on the part of the Barons to the least compensation," (sect. 183.) Rights of chase and fishing, and rights of mining in the lands of others, are likewise abolished, unless there be special grant, (s. 184.) Cardinal Consalvi, a minister of enlarged views as well as virtuous character, is entitled to share with the Pope, Pius VII., the praise of these and many other important measures.

instance in graver cases, with appeal to the Courts of Appeal at Bologna and Macerata, and to the Sagra Consultà at Rome, for the different states respectively. In each criminal court there is an advocate of the poor, appointed and paid by the Pope, to whose aid any accused person has a right, or he may employ any other advocate, provided he be of the list approved by the Government at Rome or the Delegate and Council elsewhere. Torture and flogging were abolished by the French; and this abolition was fully confirmed, indeed made more effectual in 1816, a year's hard labour being substituted for the lash. Consalvi likewise abolished capital punishment for heresy, and put an end to the right of sanctuary to offenders (or asylum) in churches, a right unhappily revived by the bigoted Pontiff who succeeded Pius VII.* All criminal proceedings, however, are carried on with closed doors, the publicity given to them by the French not having been maintained by Consalvi; the Judges, too, are removable, though in practice they are never removed unless when promoted; and since 1816 they are required to set forth the grounds of their decision in the judgment. There are no limits either in law or in practice to the power of arbitrary imprisonment, and persons are, upon suspicion of political offences, detained in custody, cut off from all communication with their friends, and deprived of all power either to force on a trial or to ascertain the cause of their detention. This power, no doubt, from the wonted timidity of a government whose fears are as easily raised as its suspicions, is seldom exercised upon persons of any note, whose disappearance would cause remark. Obscure individuals, or such as are obnoxious in society, or generally unprotected, more frequently suffer from it. The practice of parties waiting on the judges is universal; sometimes the advocate, sometimes the client has the interview; it is considered a matter of course, and is called "informing the judge." The evils of this system have been already pointed out. Among the reforms, or adoptions of French reforms, for which Consalvi and Pius VII. will ever be remembered with well-bestowed gratitude, there are none more valuable than the substitution of an effectual police for the old and vile system of the sbirri, and the establishment of a register of mortgages, an improvement

* Leo XII. is well known for his Bull against Bible Societies, and requiring the strict observance of the decree, framed by the Council of Trent, against the general use of the Scriptures. He deserves credit, however, for his improvements in judicial matters, especially the fixing of fees, and the termination of baronial rights.

which should put to shame countries that pretend to look down upon the Papal administration.

As the Delegations are subdivided into Governments, so each Government is again subdivided into Communes, which have their magistrates and councils. The council consists of forty-eight where the commune is the seat of the delegate's residence; thirty-six, twenty-four, and eighteen, for the other communes, according to their extent and importance. The first councillors were all named by the Papal government in 1816; the vacancies afterwards occurring are filled up by the remaining councillors, with a veto in the delegate, but for cause to be specified. The councillors are for life; and they give lists of three names for the mayor, called *gonfaloniere* (in which title all the old ones of prior, consul, dean, &c., are sunk), and *anziani*, or senators, who are in number six, four, or two, according to the class of the commune. Out of the three names thus proposed for each place, the government selects one. The gonfaloniere is appointed for two years; half of the anziani go out every two years. These magistrates have no salary; but the gonfaloniere has certain perquisites and exemptions. The council has the appointment of all the clerks and the other paid officers employed in the local administration, who are displaced or confirmed every two years by ballot, and this power is exercised by the council without appeal. It is the privilege of the council to impose and to distribute the taxes required for the local expenses, and it does this in a budget (*tabella di prevenzione*), yearly prepared by the magistrates. When the council has sanctioned it, with or without alteration, the delegate examines, and approves or rejects it. It must go in the last place to the congregation of the Buon-Governo; and, unless for some pressing emergency, no money can be raised until this final sanction is obtained. There is a yearly audit of all accounts by the council, and the result is transmitted to the Buon-Governo, whose approval is necessary for the discharge. The council, beside its yearly meeting for the budget, and its meeting every two years for the choice of agents and officers, may be assembled at any time for special business, by the delegate, or by the authorities at Rome. This system of municipal administration is extremely well calculated for attaining the important object of good local government, and for the prevention of abuses. It has one, and only one, capital fault; the principle of self-election is the founda-

tion of the whole, and nothing like representation is found in any part of it. The number of members, however, makes it difficult to exclude in any place the more respectable inhabitants,* and the government can only control either the composition or the proceedings of the council by its influence; its direct power over either is inconsiderable.

With the exception of the municipal administration, the government of the papal states is one of absolute power vested in a single individual, who is not only under none of the checks to its exercise known in limited monarchies, but governs with a kind of authority unknown in other pure monarchies of the European form, and with a peculiar species of influence calculated to weaken the indirect restraints imposed by the institutions that distinguish those governments from the despotisms of the East. The spiritual functions of the Pope, his eminent prerogative, not only in all matters touching the political frame of the Church, but in all things merely religious, gives a weight to his individual opinion, and a force to his personal inclinations, which no other European sovereign possesses, nay, which the Grand Signor himself can hardly be said to have, sharing it, as he must, with the Ulema, (chap. iii.) The great number of the clergy in the Roman States, considering the relation in which they stand to their chief, would be of itself decisive of his unlimited influence. The secular clergy are about 35,000, the monks above 10,000, the nuns above 8000; and this in a country of only 2,700,000† inhabitants. It is as if in this country the clergy of all kinds connected with the establishment were near half a million, instead of being much under 20,000, with an almost equal number of sectarian teachers, whose weight certainly is not thrown into the same scale upon questions relating either to secular or spiritual affairs. With such a disciplined army of the faith, the Holy Father might well trust to a weaker arm of the flesh than his 17,000 or 18,000 regulars, beside militia and volunteers.

But there are, in practice, checks to what would seem an even

* Every commune of above 1000 inhabitants must have a council of at least 24. The whole number of communes in the papal states having councils are 834, of which 106 are towns, the rest villages.

† In the Roman states there are 8 archbishoprics and 59 bishoprics. In the whole Catholic Church, out of the Papal dominions, there are 80 archbishoprics and 371 bishoprics in Europe, and 10 archbishoprics and 64 bishoprics in South America, beside the Catholic prelates in Ireland, Canada, and the United States.

more than Oriental despotism. The great number of individuals employed in the administration, all men of some ability and learning, all men of some personal influence, and many of them living in society, beside the large though incumbered fortunes enjoyed by the princes, makes it next to impossible that any act of mere caprice or cruelty should be perpetrated in the present day. The freedom of speech at Rome is proverbial, notwithstanding the habitual jealousy of the government. It is a common saying that the Pope is master of all the heads, but none of the tongues, in his capital. There is, however, a constant system of spying and informing, arising out of the timorous and meddling nature of priests; unprotected persons are exposed to vexations, and often suffer worse evils through the influence of powerful adversaries or rivals; and the sovereign, at this day, being armed with all the power which his predecessors possessed, could exercise it in all the acts of profligacy and oppression by which so many of them have become infamous, were it not for the curb of public opinion, and the risk of censure in foreign countries.

His government, too, is not wealthy. The revenue is but two millions sterling, of which 560,000*l.* goes to pay the interest of the debt, and between 300,000*l.* and 400,000*l.* to defray the charges of collection. The expenses of the court are under 60,000*l.*, and of this a very small portion indeed is allotted to the Pope himself. The very worst system of finance in Europe has reduced the government to constant difficulties, and that system has arisen out of the vicious structure of the government.

We have only to consider for a moment the peculiarity of that structure, in order to comprehend how it must needs have engendered mischiefs of the worst kind in all the departments of its exercise. A priest, advanced in years, is chosen to be the sovereign by other priests, is endowed with an uncontrolled authority over the fortunes of his whole subjects, as well as a supreme power over their strongest feelings, their religious hopes and fears, and governs with the help and by the agency of priests—men, whatever may be their merits, little conversant in temporal affairs, unless when they desert their spiritual duties, or profess to continue in the performance of them while neglecting, perhaps violating, them. Such has been the monarchy of Rome, considered only as an earthly government, and

apart from all other attributes of the See or its chief. The fruits, it must be confessed, have answered the expectations which might have been formed from such a plant. It would be tedious, and it would be disgusting also, to dwell on the tyranny and the vices which have so often disfigured the history of the Popes. But a few of the consequences may be noted which have flowed from the nature of the monarchy, and which cannot be ascribed to the personal character of the monarch. These are independent of the evils which it has in common with all other absolute governments; such as the sudden change of a policy, wise, popular, suited to the age, like that of abolishing the asylum. In no country where the public voice could make itself heard would the successors of Pius VII. and Consalvi ever have been suffered to effect, even for a while, this scandalous restoration of the worst of abuses.

The dominion of favourites and the general abuse of patronage is the inevitable consequence of an elective succession to the sovereignty, more especially when the sovereign is raised from a middle or low rank; and this abuse has at all times distinguished the Roman government. The practice of giving large presents at the accession was connected with the elective title, and Clement IX., the first who showed any real abstinence as to his own connexions, distributed 600,000 scudi (equal to above 200,000*l.* at this day) chiefly among the Cardinals who had chosen him. But a proneness to exalt private friends, and especially relations, went to much greater lengths. Even Sixtus V., who professed more nicety than most of his predecessors in the selection of Cardinals, and whose stern, masculine temper was above most of the weaknesses in which favouritism has its origin, made his cook Cardinal, giving as a reason for it the reception he had often met with at this man's villa while on progresses through the country. Persons of the tenderest years have been promoted to the highest stations in the Church. Bishops have been consecrated almost in their infancy; Leo X. was a Cardinal at thirteen, in a period of great political excitement: nay, when the Emperor upbraided Paul III. with thus promoting two very young men, his cousins, Paul averred that former Popes had made Cardinals in the cradle.

Connected with this is the *Nepotism*, or care to provide for their own families, generally their nephews, but not unfrequently

their own natural children, which has become inseparably associated with the idea of the Papacy. For many ages it was the constant course to endow those relatives with lands, the property of the See, or enable them to amass large sums by holding offices and extorting enormous emoluments through means at which the Sovereign connived, or by direct gifts of money. Paul V. bestowed on Cardinal Borghese 150,000 scudi a-year in preferment of various kinds; that and the Aldrovandini branch of the family obtained each a million of capital from him; and though these are scudi of 4*s.* 6*d.* it would be a low estimate to reckon the sums in the beginning of the seventeenth century equal to only half as many pounds at this day. Clement VIII., in the space of thirteen years, gave above half a million sterling to his family; and Sixtus V., who had begun his reign by refusing to hold any intercourse with his relatives, soon fell so far into the common track as to bestow on one nephew, in lands and money, a revenue of 50,000*l.* The Barberinis are reported to have received from Urban VIII. the incredible sum of 105,000,000 scudi, equal to above 40,000,000*l.* sterling of the present time. Thus much, however, is certain, that the Pope was himself staggered with the enormous wealth which he had heaped on his family, and appointed a commission in 1640 to examine the legality of his grants. The report was that the Holy Father, being a secular as well as spiritual prince, might justifiably apply to his family's use whatever savings he could make, and that to the extent of 80,000 scudi a-year (30 or 40,000 pounds at present) he might reasonably endow as an estate for each nephew, and give 70 or 80,000 portion to each niece. The General of the Jesuits, being likewise consulted, was of opinion that such allowance to family affection and Papal munificence was perfectly moderate.

But the lavish grants of lands and money were the least part by far of the mischief. These only took place after a much worse evil had been put down by positive decrees, namely, conferring on sons or nephews principalities which were thus alienated from the See, except the feudal superiority that was reserved, beside involving it in quarrels with other powers. Indeed, the sacrifices made to the monarch's personal interests of all the best interests of the State, were never in any country so ample or so apparent as under the Romish government. Not only

the whole policy, foreign and domestic, of such reigns as those of the infamous, though able, Borgia (Alexander VI.), turned entirely upon the plan of exalting the papal family; but a man, comparatively respectable, as Paul III., could change his whole course, and alter the whole policy of the country in the conflicts between Charles V. and Francis I., upon a speculation of obtaining the Milanese for his nephew, who had married the Emperor's natural daughter; and his subsequent quarrel with that sovereign, by which the Reformation gained incalculably and the See suffered in proportion, originated altogether in the disputes respecting an indemnity for Parma and Placentia, the principality given to the Pope's son, Pietro Luigi. Paul IV., enthusiastic reformer as he was, suffered his course during great part of his reign to be perverted by the influence which he gave Caraffa, his nephew, a mere soldier, devoid of principle and conduct, whom he had made cardinal, and who was executed by the succeeding Pope. Even Sixtus V., how much soever he might be above the weakness of a vulgar nepotism, made some of his greatest exertions to enlarge the obscure towns of his native province, and load it with new archbishoprics and bishoprics. Nay, the influence of family connexion had become so established a part of the system, that not only Lorenzo de Medici could pen a serious remonstrance to Innocent VIII., who, unlike his predecessor, Sixtus IV., was scrupulous about promoting his relations; but if a Pope by some unaccountable accident or peculiarity of constitution refused to have a nephew in the conclave with supreme influence over the administration and the pontiff himself, cardinals and even foreign powers would make formal remonstrances against an omission that subjected them to inconvenience in carrying on their wonted intrigues in the Sacred College.

The aristocracy created at Rome, although it originally came from the feudal stock, as in all Western Europe, was evidently in some respects moulded by the peculiar genius of the Papal Government. We cannot account for the preposterous privileges enjoyed by some Roman nobles upon any other supposition than the extravagant favour of the Popes, who either founded the families or wished to exalt the houses they sprung from. Thus, the Borgheses had the right to recall persons exiled, to have their property exempt from all confiscation,* and to be free

* This, as to confiscation, was by Bull.

from punishment for any kind of civil trespass. The Savellis had the right to save one culprit from the gallows yearly, beside having a peculiar jurisdiction of their own.* Such privileges must have come to them from the thirteenth century, when two of the Savelli family, Honorius III. and IV., were Popes.

In the choice of Popes the public interest was of course never consulted; and even the furtherance of a particular policy was considered only on rare occasions, as when the progress of the Reformation made it necessary to mend the morals of the See in the sixteenth century, or the contest with the Emperor in the eleventh required a vigorous chief to save the Church from ruin. But generally there was some personal motive for all the combinations and intrigues by which the election was governed. Not unfrequently the choice fell on one because he was infirm and expected soon to make another vacancy; often because the individual, being believed to be insignificant, was expected to be harmless; oftener still a person was selected not for his own merits, but because the parties could not agree on one of two eminent rivals. A far worse consequence of the manner of appointment was the systematic dissimulation to which it gave rise. Every one became, from his entrance into the Sacred College, nay, from his devoting himself to the pursuit of clerical preferment, the actor of a part, concealing his real nature, suppressing his feelings, disguising his opinions, that he might pass for a less significant person than nature had made him. The individuals most likely to become Pope were obviously those most certain to clothe themselves with a false character.

At each accession, and pontificates were unavoidably short, averaging about eight years,† the change of government was complete. The persons employed and the principles acted upon underwent an entire revolution. The attempts constantly made to fortify the nephew or other relative to whom each Pope gave his confidence, the precautions taken to fill the college with his creatures, never once succeeded in giving the family the choice of a successor, or the ascendant during the new reign. Even the

* The women of this family, from time out of mind, had never gone out of their palace but in a close carriage.

† In the sixteenth century there were seventeen elections, and the average of the Pontificate was between five and six years only. But eight years is about the average from 1400.

Barberinis, who had made no less than 48 cardinals in Urban VIII.'s time, were defeated in the choice of his successor. It was generally the nephew of the last Pope but one who prevailed in filling up the place, and that not with himself, but an ally. The last thing regarded was the true interest of the state.

In such a government foreign influence had of course the freest scope for its exercise. Till the middle of the sixteenth century the cardinals were uniformly divided into two parties, under the influence of the Imperial and French courts.

The system of exaction to which the demands of their families reduced the Popes, early made the sale of all offices become an established branch of Papal finance. There were few if any that did not pass by this kind of conveyance. The creation of new places, in order to sell them, was at Rome as ordinary a resource of an impoverished exchequer as a loan, and indeed it closely resembled that kind of transaction. The purchaser was allowed a per centage of the price paid by way of salary; but he had besides the privilege of rank, almost always ecclesiastical, and he had the chance of promotion. He was also for the most part suffered to reimburse himself by his exactions from the people. Sixtus V. raised the prices of all offices. He sold the treasurership three times over; once for 50,000 scudi, instead of 15,000, its former price; then for 72,000, and lastly for 50,000, after he had reduced the salary, that is the nominal or honest salary, to one half. Including the many new places created and sold by him, and those which he made saleable for the first time, with the more ordinary dealings of this description, he is understood to have realized a million and a half, equivalent to 700,000*l.*, by this sort of traffic, in the course of his five years' reign.

The rest of the Papal finance has been nearly as bad in principle, and as liable to manifold abuse. Loans raised by the most ruinously improvident mortgages of revenue—the rate of interest interfered with arbitrarily, even in the loans of private families, to which the State was no party—monopolies of articles of the first necessity, as well as luxury, of salt as well as tobacco—direct taxes upon flour as well as oil and wine—with a lottery that is drawing and promoting gambling in the lower classes all the year round: these are among the means by which the Papal Treasury is to this day scantily, and but scantily, supplied. All extravagance has, indeed, long ceased with the

draining of the sources that used to support it. The magnificent works of Pius VI., some highly interesting, others eminently useful—his restorations of the antique, and his draining of the Pontine Marshes—may gain favour, or at least obtain mercy, for the measures by which he founded the last family, to all appearance, that will ever attest the miraculous powers of St. Peter.* His four successors have probably not had the desire, certainly have not possessed the power, to follow his example.

A near examination of the Papal Government is full of important political instruction. If it shows that arbitrary power, the most unlimited in theory, may be so exercised on ordinary occasions as to press with little severity upon individuals, it also proves that the people thus ruled can have no security against the most flagrant abuses, and that the worst possible management of their concerns is the natural consequence of an individual being entrusted with uncontrolled authority. It illustrates more than perhaps any other portion of history, the extensive mischiefs wrought by suffering the personal feelings of a monarch to guide the course of national affairs. As nothing can be more hostile to public liberty, in a limited or mixed Monarchy, than the caprice of the sovereign influencing the policy of the State or the choice of those who shall direct it, so in pure Monarchies, which are chiefly to be abhorred because they arm the prince with this licence, nothing can be so disastrous as his using it. The Papal Government presents the most remarkable examples of such indulgence, and the contemplation of its effects cannot be without benefit even to the subjects of a Constitutional Crown.

*** A Table of the Popes will accompany the next Chapter.

* The palaces of the Roman nobles which owe their origin to nepotism are jocularly termed miracles of St. Peter. Pius VI. was Pope from 1775 to 1800; his virtuous and pious successor nearly as long. But though Pius VII. was compelled to dispose of all the communal property to meet the exigencies of the state, not a whisper was ever heard against his private conduct.

A LIST OF POPES, FROM 336 TO 1831.

Date of Election.
A. D.

336 Marcus, a native of Rome, succeeded Sylvester I.
337 Julius I., a native of Rome.
352 Liberius, a Roman, banished by Constantius.
Felix, substituted by Constantius, is considered by most as an intruder.
366 Damasus I., a Spaniard, elected after the death of Liberius.
Ursicinus, antipope against Damasus.
384 Siricius, a Roman, succeeded Damasus.
398 Anastasius I., a Roman.
401 Innocent I., a native of Albano.
417 Zosimus, a Greek.
418 Boniface I., a Roman.
422 Celestinus I., a Roman.
432 Sixtus III., a Roman.
440 Leo I. of Rome, called the Great.
461 Hilarius, a native of Sardinia.
467 Simplicius, a native of Tibur.
483 Felix III. of Rome.
492 Gelasius I. of Rome.
496 Anastasius II. of Rome.
498 Symmachus, a native of Sardinia.
514 Hormisdas, a native of Frusino.
523 John I., a Tuscan.
526 Felix IV., a native of Beneventum.
530 Boniface II. of Rome.
532 John II. of Rome.
535 Agapetus I. of Rome.
536 Sylverius, a native of Campania.
540 Vigilius, a Roman.
555 Pelagius I., a Roman.
560 John III. of Rome.
574 Benedict I. of Rome.
578 Pelagius II. of Rome.
590 Gregory I. of Rome, styled the Great.
604 Sabinianus, a native of Tuscany.
607 Boniface III. of Rome.
608 Boniface IV., a native of Abruzzo.
615 Deusdedit or Deodatus I. of Rome.
619 Boniface V., a Neapolitan.
625 Honorius I., a native of Capua.
638 Severinus of Rome.
640 John IV., a native of Dalmatia.
641 Theodorus, a Greek.

Date of Election.
A.D.

649 Martin I. of Tudertum.
654 Eugenius I. of Rome.
657 Vitalianus, a native of Signia.
672 Deusdedit II. of Rome.
676 Domnus I. of Rome.
678 Agathon, a Sicilian.
682 Leo II., a Sicilian.
684 Benedict II. of Rome.
685 John V., a native of Syria.
686 Conon, a native of Thrace.
687 Sergius I., a native of Palermo.
701 John VI., a native of Greece.
705 John VII., a native of Greece.
708 Sisinius, a native of Syria, died a month after.
708 Constantine, a Syrian.
715 Gregory II. of Rome.
731 Gregory III., a Syrian.
741 Zacharias, a Greek, crowned Pepin, king of France.
753 Stephen II., survived his election only a few days.
753 Stephen III. of Rome.
757 Paul I., a Roman.
763 Stephen IV., a Sicilian.
772 Adrian I., a Roman.
795 Leo III., a Roman, crowned Charlemagne emperor, A.D. 800.
816 Stephen V., a Roman.
817 Paschal I., a Roman.
824 Eugenius II., a Roman.
827 Valentinus, a Roman, died in less than two months after.
827 Gregory IV., a Roman.
843 Sergius II., a Roman.
847 Leo IV., a Roman.
Between Leo and his successor some chroniclers place JOAN.
855 Benedict III., a Roman.
858 Nicholas I., a Roman. Schism of PHOTIUS began.
867 Adrian II., a Roman.
872 John VIII., a Roman.
882 Martin II., called by some Marinus I.
884 Adrian III., a Roman.
885 Stephen VI., a Roman.

Date of Election.
A.D.
891 Formosus, bishop of Porto.
Sergius, antipope, and after him Boniface, styled by some VI.
896 Stephen VII., a Roman.
897 Romanus, a Tuscan, died after four months.
897 Theodorus II., a Roman, died in less than a month.
897 John IX. of Tibur.
900 Benedict IV., a Roman.
903 Leo V., a native of Ardea.
Christopher, antipope.
904 Sergius III., the favourite of Marozia and the Tuscan faction.
911 Anastasius III., a Roman.
913 Lando, a native of Sabina.
914 John X., a Roman, died in prison by the Tuscan faction.
928 Leo VI., a Roman.
929 Stephen VIII., a Roman.
931 John XI., son of Sergius III. and of Marozia.
936 Leo VII., a Roman.
939 Stephen IX., a Roman.
943 Martin III., called by some Marinus II.
946 Agapetus II.
956 John XII., Ottaviano Conti, nephew of John XI.
He was the first who changed his name on his assumption.
963 Leo VIII., styled antipope by some.
964 Benedict V., a Roman.
965 John XIII., a Roman.
972 Benedict VI., was killed in the tumult of Crescentius.
973 Domnus II., a Roman.
974 Benedict VII., of the Conti family.
983 John XIV., put to death by Cardinal Franco.
Franco, antipope, by the name of Boniface VIII.
985 John XV., a Roman, died in a few months.
986 John XVI., a Roman.
996 Gregory V., a German: Crescentius put to death by Otho III.
999 Sylvester II., Gerbert, native of Auvergne.
1003 John XVIII., a Roman.
1009 Sergius IV., a Roman.
1012 Benedict VIII., of Tusculum, of the Conti family.
1024 John XIX. of Rome, brother of the preceding.
1033 Benedict IX., nephew of the preceding, deposed.
Antipope, Sylvester, bishop of Sabina.
1044 Gregory VI. of Rome, abdicated.
1047 Clement II. of Saxony (bishop of Bamberg).
1048 Damasus II. (Poppo, bishop of Brixen).

Date of Election.
A.D.
1049 Leo IX., bishop of Toul. Final separation of the Greek Church.
1055 Victor II., bishop of Eichstadt.
1057 Stephen IX., Frederick, abbot of Monte Casino.
1058 Benedict X., by some styled antipope, abdicated.
1059 Nicholas II. of Burgundy.
1061 Alexander II. of Milan.
1073 Gregory VII., Hildebrand, a monk of Soana in Tuscany.
Guibert, antipope, assumed the name of Clement III.
1086 Victor III., a native of Beneventum.
1088 Urban II., a native of France.
1099 Paschal II., a native of Tuscany.
Antipopes, Albert and Theodoric.
1118 Gelasius II., a native of Caieta.
1119 Calixtus II., a native of Burgundy.
1124 Honorius II., Cardinal Lamberto, bishop of Ostia.
1130 Innocent II., a Roman.
Anacletus, antipope.
1143 Celestinus II., a Tuscan.
1144 Lucius II. of Bologna.
1145 Eugenius III. of Pisa.
1153 Anastasius IV., a Roman.
1154 Adrian IV., Nicholas Breakspeare, an Englishman.
1159 Alexander III., Cardinal Orlando Bandinelli of Siena.
Cardinal Octavian, antipope, by the name of Victor.
Cardinal Guido, antipope, by the name of Paschal.
Calixtus, antipope.
1181 Lucius II., Cardinal Ubaldo of Lucca.
1185 Urban III., Uberto Crivelli, archbishop of Milan.
1187 Gregory VIII. of Beneventum, died in two months.
1188 Clement III., Paul, bishop of Præneste.
1191 Celestinus III., Cardinal Hyacinthus, a Roman.
1198 Innocent III., Cardinal Lotharius of Signia.
1216 Honorius III., Cardinal Savelli of Rome.
1227 Gregory IX., Cardinal Hugo of Anagni.
1241 Celestinus IV. of Milan, died in a few days.
1242 Innocent IV., Cardinal Sinibaldo Fieschi of Genoa.
1254 Alexander IV., Cardinal Rinaldo Conti of Anaqui.
1261 Urban IV., James, patriarch of Jerusalem, a Frenchman.
1265 Clement IV., Guy of St. Gilles in Languedoc.

Date of Election.
A.D.
1272 Gregory X., Tebaldo Visconti of Piacenza.
1276 Innocent V., Cardinal Peter, a native of Tarentaise.
1276 Adrian V., Ottobono Fieschi of Genoa, died in a month.
1276 John XXI. of Lisbon.
1277 Nicholas III., Cardinal Orsini of Rome.
1281 Martin IV., Cardinal Simon de Brie, a Frenchman.
1285 Honorius IV., Cardinal James Savelli of Rome.
1288 Nicholas IV., Cardinal Jerome of Ascoli.
1294 Celestinus V., Pietro da Morrone of Abruzzo, abdicated.
1295 Boniface VIII., Cardinal Benedetto Caetani of Anagni.
1303 Benedict XI., Cardinal Nicholas of Treviso.
1305 Clement V., Bertrand of Bordeaux, removed the Papal See to Avignon.
1316 John XXII., James of Cahors in France.
Nicholas, antipope, in Italy.
1334 Benedict XII., James Fournier, a Frenchman.
1342 Clement VI., Peter Roger of Limoges in France.
1352 Innocent VI., Stephen Aubert of Limoges.
1362 Urban V., William Grimoard, a Frenchman.
1370 Gregory XI., Peter Roger, a Frenchman, restored the Papal See to Rome.
1378 Urban VI., Bartolomeo Prignano, a Neapolitan.
Antipope, Clement, at Avignon.
1389 Boniface IX., Peter Tomacelli of Naples.
Antipope, Pedro de Luna, a Spaniard.
1404 Innocent VII., Cosmo Migliorati of Sulmona.
1406 Gregory XII., Angelo Corrari of Venice, abdicated at Constance.
1409 Alexander V., Peter Philargius of Candia.
1410 John XXIII., Cardinal Cossa, deposed by the Council of Constance.
1417 Martin V., Otho Colonna, a Roman.
1431 Eugenius IV., Gabriel Condulmero, a Venetian. Schism between the Pope and the Council of Basle.
Felix, antipope.
1447 Nicholas V., Cardinal Thomas of Sarzana.
1455 Calixtus III., Alfonso Borgia, a Spaniard.

Date of Election.
A.D.
1458 Pius II., Æneas Sylvius Piccolomini of Siena.
1464 Paul II., Peter Barbo of Venice.
1471 Sixtus IV., Francis della Rovere, a Genoese.
1485 Innocent VIII., Gian Battista Cibo, a Genoese.
1492 Alexander VI., Rodrigo Lenzoli Borgia, a Spaniard.
1503 Pius III., Francis Todeschini Piccolomini, died in a month.
1503 Julius II., Julian della Rovere, a Genoese.
1513 Leo X., Giovanni de' Medici, son of Lorenzo the Magnificent.
1522 Adrian VI. of Utrecht, preceptor of Charles V.
1523 Clement VII., Giulio de' Medici, nephew of Lorenzo.
1534 Paul III., Alessandro Farnese of Rome: convoked the Council of Trent.
1550 Julius III., Giovan Maria Giocci of Rome.
1555 Marcellus II., Cardinal Cervini of Montepulciano, died in a month.
1555 Paul IV., Gianpietro Caraffa, a Neapolitan.
1559 Pius IV., Giovanni Angelo Medichini of Milan, closed Council of Trent.
1566 Pius V., Michele Ghislieri of Alessandria in Piedmont.
1572 Gregory XIII., Hugo Buoncompagni of Bologna.
1585 Sixtus V., Felice Peretti of Montalto, in the March of Ancona.
1590 Urban VII., Gian Battista Castagna, a Genoese, died in a few days.
1590 Gregory XIV., Nicola Sfrondati of Milan.
1591 Innocent IX., Gian Antonio Facchinetti of Bologna.
1592 Clement VIII., Ippolito Aldobrandini, a native of Fano.
1605 Leo XI., Alessandro de' Medici of Florence, died in a month.
1605 Paul V., Camillo Borghese of Rome.
1621 Gregory XV., Alessandro Ludovici of Bologna.
1623 Urban VIII., Maffeo Barberini, a Florentine.
1644 Innocent X., Gian Battista Pamfili of Rome.
1655 Alexander VII., Fabio Chigi of Siena.
1667 Clement IX., Giulio Rospigliosi of Pistoia.
1670 Clement X., Emilio Altieri of Rome.
1676 Clement XI., Benedetto Odescalchi of Como.
1689 Alexander VIII., Pietro Ottoboni of Venice.

Date of Election. A.D.	
1691	Innocent XII., Antonio Pignatelli of Naples.
1700	Clement XI., Gian Francesco Albani of Urbino.
1721	Innocent XIII., Michel Angelo Conti of Rome.
1724	Benedict XIII., Vincenzo Maria Orsini of Rome.
1730	Clement XII., Lorenzo Corsini of Florence.
1740	Benedict XIV., Prospero Lambertini of Bologna.
1758	Clement XIII., Carlo Rezzonico of Venice.
1769	Clement XIV., Gian Vincenzo Ganganelli, born near Rimini.
1775	Pius VI., Angelo Braschi of Cesena.
1800	Pius VII., Gregorio Barnaba Chiaramonti of Cesena.
1823	Leo XII., Annibale della Genga, native of Romagna.
1829	Pius VIII., Cardinal Castiglioni of Cingoli.
1831	Gregory XVI., Mauro Capellari, born at Belluno.

CHAPTER XVII.

ITALIAN MONARCHIES—(*continued*).—SICILY AND NAPLES.

Provincial Government of the Goths—Of the Eastern Empire—Exarchs—Longinus and Narses—The Lombards—Their Origin and Conquests—Lombard Government—Duchies—Ten years Anarchy—Autharis, founder of the Monarchy—Duchy of Benevento—Pepin and Charlemagne—Revolutions of the Duchy—The Normans—Their Conquests—End of the Lombard Monarchy—Lombard Government—Feudal System modified—Gastaldi—Sculdasci—Lombard Diets; Legislation; Church—Lombard Code—Establishment of different Codes—Norman Monarchy; Policy—Papal authority—Laws of Roger—Great Officers of the Crown—Swabian Line—Laws of the Williams and Frederick I. —Anjou Line—Arragon Line—Viceregal Government—Reforms of Alphonso I. —Of Ferdinand I.—Imperfect Federal Union—Foreign Influence—Parliament of Naples—Seggi—Councils; Chambers; Chancery; Courts—Delegations—Vicaria—Resistance; Masaniello—Parliament of Sicily—Writ of Summons—Proceedings—Privileges—Diputati di Regno—Feudal Burdens—Spanish Tyranny—Administration of Justice—Constitution of 1806; of 1812—Restoration of 1815—Revolution and Parliament of 1820—Interference of the Holy Allies.

THE most important of the Italian Monarchies is the Sicilian or Neapolitan, the proper denomination of which is the United Kingdom of the two Sicilies; the one, the Continental part, forming the southern portion of Italy, extending over about one-third of the Peninsula, and containing six millions of inhabitants,—the other being the Island of Sicily, and having a population of two millions. These two kingdoms have most commonly been united under one crown; but they have also been at different periods, and for a considerable length of time, separated, by the fortunes of war, the accidents of succession, and the course of political arrangements, in which, it needs scarcely be remarked, the interests or the wishes of the people were the last things ever thought of, or rather were never considered at all. The continental dominions are frequently called the kingdom of Apulia (regno di Puglia), and their name in the language of administration is, Dominions on this side the Faro (di quà del Faro), with reference to the seat of government; Sicily being in like manner termed the Dominions beyond the Faro (di là del Faro). It will be convenient to call the Continental dominions—Naples, and the Insular—Sicily, unless where it is otherwise noted.

The Roman Magistrates (Consulares, Rectores, and Presides), and the Roman divisions of provinces, had been retained by the Goths according to their universal practice of adapting their policy to that of the countries in which they settled. The revolutions of

the fifth century, therefore, made no material change except in the substitution of the Gothic for the Latin Dynasty; and the overthrow of those Barbarians, finally accomplished in 536 by the arms of the Emperor, only led to the establishment, as we have seen (Chap. XVI.), of the Imperial Lieutenants, who under the name of *Exarchs*, and established at Ravenna from the year 567, governed Italy for the Sovereign now residing at Constantinople. The Goths had added to the Roman Magistrates their *Counts*, as Governors of subdivisions, and other officers to administer justice. The Exarchs appear to have reduced the provincial government to a more regular form, but the substance does not seem to have materially varied from that of the Gothic administration. Instead of Consulares and the other Roman functionaries, they appointed for all the cities and districts of any importance chiefs whom they called *Dukes* (duces), and Judges for the administration of justice. These dukes governed under the Exarch, and were at first annually appointed, and sent from Ravenna, the seat of his government. The principal change effected was in the more minute subdivision of the provinces, and their consequently greater dependence on the Exarch. Rome itself, no longer allowed to have a Senate and Consuls, was governed by a Duke. But the result of this arrangement also was the weakening of the Greek and Roman power in all the districts, and the facilitating of the next invasion of the Barbarians. The scheme of provincial government thus introduced is generally ascribed to Longinus, who is considered as the first of the Exarchs. A much greater man, the Eunuch Narses, seems to have been its real author; and as he completed the re-conquest of Italy after the reverses sustained upon the recall, alike unjust and impolitic, of Belisarius, and was for 15 years in the supreme command civil and military, he must be regarded as the first Exarch, Longinus having been only appointed on his removal, when, by an act of Imperial ingratitude as flagrant as that which had displaced Belisarius, he was rewarded for services as brilliant both in peace and in war as ever earned from a Sovereign the ordinary reward of proscription.* Certain it is that this illustrious man

* Giannone (*Ist. Civ.*, lib. iii. cap. 5), Galanti (*Descrizione delle Sicilie*, lib. i. cap. 2), and most others, ascribe the new modelling of the administration to Longinus, whom they consider as the first Exarch. Maffei (*Verona Illustrata*) proves Narses to have been its author; and Mr. Gibbon, with his accustomed judgment, has adopted this view, and has also represented him as the first Exarch (*Decline and Fall*, chap. xliii.).

must be classed with the greatest Captains and Statesmen whom any age or country has produced.* But a cloud hangs over his fame like that which dimmed the inferior lustre of Moreau's in our times. He suffered a sense of his own personal wrongs to overcome his regard for his country; and called in the arms of the Lombards as conquerors, to overthrow the Greek Dynasty which he had, by the aid of those arms as auxiliaries, re-established against the other barbarians.†

The success of the Lombards was almost uninterrupted during the latter part of the sixth century. With the exception of the islands on which Venice had been founded and had flourished as a republic while the Goths possessed Italy as a kingdom, all the extensive Venetian territories, covered with above fifty flourishing cities, were soon reduced by Albouin, the founder of the Italian Monarchy of the Lombards, though said to be the eleventh King in their own country. Before the year 571 they had conquered the whole North of Italy from the Adriatic to the coast of Genoa, nearly all Tuscany, and the States now forming Modena, Ferrara, Bologna, and had extended their dominion as far as Spoleto, leaving the Exarch only Ravenna and its adjoining territory in that quarter, though his power continued much longer in the Southern parts of the Peninsula. They fixed their seat of government at Pavia, and on the death of Albouin, who was murdered by his wife Rosamond and her paramour,‡ chose Cleophas as his successor, who pushed their conquests considerably farther; but his cruelty and tyranny having disgusted them with kingly government, they remained for ten years after his death under the

* Tasso, hesitating long in the choice of a subject for his epic poem, is said to have at one time thought of taking the exploits of Narses.

† The more received and apparently the sounder opinion assigns Scandinavia as the original country of the Lombards, and represents them as having overpowered the Vandals, taken the name first of Venili or Vagrants, and afterwards of Longobardi, from their hair, and then settled in Pannonia. Of this opinion are Paul Warnefrid, commonly called Paolo Diacono, Grotius, and Giannone; others, as Cluverius, Hertzberg, and Mr. Gibbon, have derived their origin from the interior of Germany (see *Decline and Fall*, chap. xlii., and Giannone, *Ist. Civ*, lib. iv. Introd.). But all are agreed that they had established themselves for about forty years in Pannonia before they entered Italy, as the allies of Justinian, early in the sixth century. They were dismissed at the end of the war by Narses, and returned to Pannonia, which they relinquished to the Huns, who gave it the name of Hungary, when Narses again invited them into Italy about the year 568.

‡ The paramour was soon after poisoned by Rosamond, who herself died by the same cup, which the paramour forced her to empty.

authority of Dukes, who governed each province separately. For the Lombards retained the arrangement introduced by the Exarchs, and administered the affairs of each district under Dukes and judicial officers. The duchies varied in extent and importance, those of Friuli and Spoleto being far greater than any of the others: next in importance were Milan, Pavia, Bergamo, Brescia, and Trent. There were twenty-nine or thirty* others of much less extent; and each Duke was absolute within his own principality. The consequence of this subdivided power with no common head, was that the Lombard conquests ceased after a few successes in 579, which extended their dominions to Perugia, Sutri, and some other towns; and the Greek Emperor, having replaced Longinus with a more vigorous Exarch, began to recover parts of the territory which had been lost. The Lombards were thus driven to unite their dominions again under one ruler, and made Autharis, the son of Cleophas, their King in 585. This Prince was properly speaking the founder of the Lombard Monarchy. He reduced the Dukes to dependence upon him as their Sovereign, and made them pay him one-half of their revenues, while he left them the government of their principalities; and although he held them liable to be displaced at his pleasure, yet he introduced the practice, which afterwards became general and was the law, of leaving their dignities and offices hereditary in their families, only to be forfeited by treason, or to cease on failure of their male descendants. The district of each Duke was subdivided into lesser districts under Counts (Comites), who had been also appointed in the time of the Goths, and were at first, like the Dukes, office-bearers, holding their employment during pleasure, but afterwards like them became hereditary in the male line.

The vigorous government of Autharis enabled the Lombards to resume their conquests, interrupted by the feeble and divided state of the ducal government, or rather anarchy, of ten years, and they soon extended their dominions over the southern portion of Italy. Historians are not agreed upon the origin of the great duchy of Benevento, some tracing it entirely to the conquests of Autharis, and regarding him as its founder by a grant to Zotto or Zottone, the first Duke; others, and these more to be relied

* Most writers reckon only thirty duchies in all; but Paul Warnefrid's authority seems decisive in favour of there having been thirty-six, or, if Spoleto be counted, thirty-seven.

on,* deducing it from the settlement of a part of the Lombards who had acted in alliance with Narses, and had not quitted Italy when the rest of their forces were sent back to their homes in Hungary. This body is supposed to have remained in the suburbs of Benevento, and afterwards, about 561, overpowering the inhabitants, to have extended their dominions over part of the province of Sanno (the ancient Samnium). When Autharis afterwards overran the rest of that country he found Zotto already established as an independent chief, and confirmed him in his duchy with a large addition of territory on his consenting to hold it under the Crown. But upon the extent which this important principality soon acquired there is no doubt. The duchy of Benevento soon comprised all that now constitutes the twelve provinces of the Neapolitan dominions, with the exception of the duchy of Naples, Amalfi, Gaeta, and a few of the maritime towns in Calabria and the Abruzzi. It was called Italia Cis-tiberina by the Italians, and by the Greeks Lombardia the Less; and its real independence, though nominally subject during part of the time to the kingdom of Italy, continued for five centuries, with the exception of a temporary conquest effected by the Greeks in 890. Of the three Lombard duchies, which were rather independent kingdoms than provinces of the Italian Crown, Friuli, Spoleto, and Benevento, the latter was as far superior in importance to the other two, as they were to the thirty-three petty principalities, or really provincial districts, under the other Dukes.

When the Franks under Pepin, and more effectually under Charlemagne, conquered the Lombard kingdom, and united it to their own in the latter part of the eighth century and beginning of the ninth, the duchy of Benevento was for a short period only, from 812 to 817, made tributary to the empire, and then shook off its yoke and extended its dominions over the duchy of Naples. Its contests with the remains of the Greek power occasioned appeals on both sides to the Saracens, who, during a part of the ninth century, obtained by this means a footing in many of the Neapolitan provinces. About the year 850 the duchy came to be divided into the three principalities of Capua, Salerno, and Benevento; and these, having called in the aid of the Emperor

* Giannone reconciles with this view of the question Paul Warnefrid's authority, often supposed to be on the other side. His statement of the case is exceedingly judicious (*Ist. Civ.*, lib. iv. cap. 12). Galanti (lib. i. cap. 2) takes the same view of the question.

Louis II. (King of Italy) against the Saracens, consented to hold their dominions as his feudatories. In 978 they were again united under Pandolfo (surnamed Ironhead), who also possessed Spoleto and Camerino. At his death in 982 the duchy was divided into two, Salerno and Benevento. The Emperor Otho II., having failed in an attempt to drive the Greeks out of Italy, laid waste the duchy, and the Greeks recovered in a considerable degree their power over the country to the south. But in the early part of the following century a great change took place. Some Norman pilgrims, having on their return from the Holy Land stopped to visit the Neapolitan monasteries, assisted the Prince of Salerno in repelling a naval attack of the Saracens. They were invited to remain, and many more of their countrymen flocked to join them from the north of France. Profiting by the divisions of the Italians and Greeks, and by their great superiority over these less warlike tribes, they completed in a few years the conquest of the country, and by the middle of the eleventh century they had both overcome the Greeks as well as the Italians in the whole continental dominions of Naples, and had acquired a footing in Sicily, which the Saracens had taken from the Greeks, having in 827 conquered the greater part of the island, and soon after acquired the rest. The Norman invasion of Sicily under Robert Guiscard began in 1060 (six years before their conquest of England under William), and they completely conquered the island under Roger his brother in 1090. On the Continent, Bari, the last place held by the Greek Emperor, was taken by Robert Guiscard in 1070; and in 1077 he annexed Benevento to his dominions, on the death of Ludolph without issue; but he gave the town and a small adjoining territory to the Pope.

The Lombard Monarchy, which had been overthrown in the north three centuries before, thus ceased also in the south of Italy. Its institutions and its laws were not materially different in these different portions of the country, unless in so far as Charlemagne and his successors introduced some additions and alterations in the north; the groundwork continued everywhere the same; and in the Neapolitan kingdom the Lombard plan of government and legislation was so little affected by the Norman conquest, and the subsequent changes of dynasty, that they form the foundation of the constitution which has generally prevailed.

We have seen that the provincial government by Dukes was

continued under the Lombards from the Greeks and Latins, and that Counts had the charge of smaller districts. Strictly speaking, the Count had only a city; but to this was added the territory immediately adjoining, and other districts to a large extent were annexed in some instances. The rule was that twelve of these counties formed a dukedom; but of course to this there were many exceptions. The Count, as in the other feudal kingdoms, had civil jurisdiction as well as military command. The Duke or Prince for a long while resisted the claim of the Count to retain his office during life, and frequently removed him or confirmed his appointment by a new grant, sometimes yearly, in order to retain the power of dismissal, and to keep up the appearance of more dependence than really existed. But some of the counties, as that of Capua, became so powerful, that they were nearly as independent of the Duke as he was of the King at Pavia; and the influence of the Duke, as of the King, depended upon his own separate property and upon the comparative weakness of the inferior feudatories. The greater number of the dukedoms were of small extent, and could not offer serious resistance to the Crown. Instead of the seven great principalities into which all France was divided, Italy, excepting the Exarchate and Roman States, had only three powerful principalities, Friuli, Spoleto, and Benevento, to which Tuscany may be added. Most of the other dukedoms were necessarily small (except that of the capital, which was the King's own), their number being upwards of thirty in about half the peninsula; so in the duchy of Benevento, which may be regarded as rather an independent principality, there are above forty counties enumerated as possessing some importance, besides a much greater number of small ones; and excepting Capua none could oppose any effectual resistance to the Prince. The power of the Crown thus became, at a much earlier period, better established in Italy than to the north of the Alps; nevertheless the Feudal System produced its accustomed effect in a considerable degree. The vassals of the Crown had some weight in the administration of affairs, and by degrees they succeeded in making their offices and dignities hereditary as well as their property. Before the Norman invasion all counties were held by the nobles, until they either committed some crime by which they incurred a forfeiture, or until the male heirs of the original grantee failed.

Beside that of Dukes and Counts, another office was introduced

about the year 667, on the settlement of the Bulgarians, whom Grimwald Duke of Benevento introduced from their territory upon the Danube, as allies against the Greek emperor, and established in the county of Molisa. He would not give their chief (Alezeco) the title of Duke or even Count, but called him *Gastaldo*, and from that time arose an inferior kind of Count; for though Alezeco himself held a large district, there were Gastaldi appointed in towns and villages under the counts. In many places these had only the care of a hamlet, but there were gastaldi of large towns and even of cities. The name was also given to persons who superintended farms, just as *bailiff* with us and *bailli* in France came to be the appellation of private agents, though originally denoting a public employment. A difference of opinion prevails among Italian jurists and antiquaries as to the tenure of the Gastaldo, some maintaining that it was feudal, of whom Pellegrini is the most eminent; others following the doctrine of Cujas, who considers it as always having been an office held during pleasure. Giannone, himself a high authority on such a question, leans decidedly to the latter opinion. (*Ist. Civ.*, lib. vi. cap. 1.) Galanti, another lawyer of eminence, without discussing the question, treats the Gastaldo as on the same footing with the Count. (*Descriz. Geog. e Pol.*, lib. i. cap. 3.)* But there seems to be no doubt respecting the nature of the Gastaldo's office. He had, under the Count, the government of the subdivision, whether village or town, and originally he had military command as well as civil power. His principal functions however were fiscal; he had the management of the revenue. He was also the judge, subordinate to the count, who decided on appeal from him, and also when he had passed the time allowed for giving judgment; but under him was another officer, called the *Sculdasco*, who had charge of a smaller district, as a village within the gastaldia, or a single castle, and from whom lay an appeal to the Gastaldo. The Sculdasco resembled the Centenary of the Franks, of whom we have made mention in Chap. XI. The Gastaldo, like the Count, had his district in many instances extended, so that there were some, as those of Capua

* This writer's language respecting the feudal system ("the most monstrous ever known on this earth," lib. i. cap. 3), in a work dedicated to the King, and published in 1787, shows either how little the Sicilian monarchy is regarded as feudal, how hostile the Count was to the system, or how freely its lawyers express themselves. Such language would not have been addressed to our George III.

and Cosenza, which had a great extent, and included cities as well as smaller towns. The lands in general paid one-third of their produce to the feudal lord and the residue belonged to the cultivator. The feudal policy was not introduced into the whole of the kingdom at once; it slowly made its way from one portion to the rest; so that although the Lombards established it in Sannio and Campania, it was not fixed in Apulia and Calabria till the Normans had settled there, who also introduced it into Sicily.

Although Autharis, in the beginning of the monarchy, introduced the first feudal institutions and the earliest of the Lombard laws, it was not till the middle of the next century (644) that they were reduced into writing by Rotharis, whose edict contains no less than 386 laws. His successors, Grimwald, Luitprand, Rachis, and Astolpho, increased the code, particularly Luitprand, who added 157 laws or chapters. The Lombard code then became one of great extent, and, as compared with the other Barbaric laws, of great excellence, surpassing all except those of the Visigoths, of which we have spoken already (ch. xi.), and the code of which was completed by the Assembly of Toledo half a century after the time of Rotharis. The taste of the Lombard Princes for legislation and the genius of the people for it were proverbial in the middle ages.*

These laws were always promulgated and often discussed at General Assemblies or Diets, held for the most part at Pavia, the capital of the kingdom, and attended, as those of Charlemagne were, by the greater chiefs or Dukes, the Counts, and the principal magistrates of the various provinces. The affairs of the kingdom at large were often considered in those meetings, as in Charlemagne's, not by any right which they claimed to control the royal power, but because the Sovereign found it for his interest to obtain the advice and assistance of the other chiefs, and to engage them in enforcing the laws thus made and published. The Dukes, excepting two or three, being of very subordinate importance to the King, and far less powerful than the great feudatories of France, the diets were better attended, and those who came were more obsequious. Nevertheless, so much

* "Gens astuta, sagax, prudens, industria, solers,
Provida consilio, legum, jurisque perita,"
says Gunterus, a famous poet in the court of the Emperor Frederick I.

virtue is there in publicity of deliberation, and in discussions, how imperfect soever, carried on by a number of persons differing in opinions, and of various interests as well as habits and classes, both to check abuses and to prevent oversights, that the highest authorities on the subject, Grotius* and Giannone,† have alike deduced from thence the superiority which, in some respects at least, the Lombard laws have over the more finished and refined code of Justinian, and especially their greater steadiness and consistency as compared with the Imperial legislation, which sometimes exhibits three or four contradictory enactments upon the same matter. As the King held his general or National Assembly in the capital, so each Duke had his assembly in his own principality attended by his Counts and Magistrates. Thus in the great Benevento Duchy the Gastaldi attended as well as the Counts; and to these meetings appeals were made for advice and for military support, in managing the affairs or providing for the defence of the Principality. Upon any emergency extraordinary assemblies were convened: thus, when a single chief was to be substituted for the Ducal anarchy, the choice was made at a National Assembly or Diet, and Autharis the son of Cleophas was chosen, as we have already seen.

It is to be remarked that neither in the National Assemblies or Diets held at Pavia for the whole kingdom, nor in the Provincial Assemblies of the several Duchies, was there any attendance of the Clergy. The Lombards only embraced Christianity in the reign of Autharis at the end of the sixth century; for a considerable time the converts were only Arian Christians, and not reckoned Catholics like the old settlers, Latin or Greek, who had their own prelates while the Lombards had theirs: so that the Catholic Church was not established and Arianism extinguished till the reign of Grimwald, a century after the foundation of the monarchy; and the ecclesiastics never attained sufficient influence during the subsistence of the kingdom of Italy to make their presence essential in the National Assemblies. The wealth of the Church was however rapidly increased during this period. The Roman Patriarch or Bishop, the Pope, had a Patrimony of St. Peter in many parts of Italy; but he exercised

* *Proleg. Hist. Goth.*

† *Ist. Civ.*, lib. iv. cap. 6.; lib. v. cap. 5.

no jurisdiction over the cultivators, who were subjects in all respects of the secular Princes, paying tribute and performing service like the rest of the people:* so were their own ecclesiastics and the cultivators of their several possessions. The Bishops were elected by the Clergy and the people, who had a voice in these affairs long before they in any way shared in the deliberations of the secular Diets, and the interference of the Sovereign with the choice of the prelates, though it often proved effectual, was the result of influence and not of direct authority or right. The only direct veto was that exercised by the Roman Pontiff consecrating the Bishop on whom the election had fallen. The fourfold division of the ecclesiastical revenue prevailed here as in the North of Europe, one portion going to the Bishop, one to the Priests, one to the poor, and one to the fabric of the Church.

The Lombard law, promulgated and partly prepared at these National Assemblies, was, like the laws of the other northern nations, more favourable to personal liberty than the Roman and Imperial codes. It confined capital punishment and confiscation to the offence of regicide in freemen, and in slaves to that and the marrying or the killing of a free person; but in other respects slaves were better treated. They were acknowledged to have rights as men instead of being regarded as chattels, which they were by the Civil Law; they were allowed to marry and to possess property; they were punished by fines, or rather redeemed themselves by compensation, like freemen; they could work for themselves with the permission of their masters, given for a fixed sum; and the seduction of married slaves by the master, worked the liberation of both husband and wife.—Indeed the sanctity of the marriage tie generally was maintained by severely punishing adultery and discountenancing bastardy, although natural children, that is, the children by a concubine, who was regarded as a kind of wife (*semi-conjux*), were allowed to inherit a third part of the property.—The protection of infants (eighteen being the age of majority) and the duties of guardians were regulated on principles sufficiently sound, placing women however under perpetual tutelage, as the customs of some Nea-

* Dispensations from taxes were at different times granted to the possessions of the Romish See. Thus the Greek Emperors exempted the patrimony of Sicily and Calabria in 681, and that of Abruzzo and Lucania in 687.

politan and other Italian districts have always continued to do, and as a late change in the law of the kingdom has done universally.—The laws respecting contracts were in general well conceived. Prescription was allowed to supply the want of written title. Publicity in transfers of property, by requiring them to be made at public courts or assemblies, national or provincial, prevented fraudulent conveyances and secret claims.—The principle of representation in succession was recognised, so that the children of a deceased son inherited to the grandfather in preference to a son or jointly with him.*—A course of appellate jurisdiction was established with the double view of expediting decision, and correcting mistakes. Causes of any importance were appealed from the Sculdasco to the Gastaldo and from him to the Duke or Sovereign; and the Judge in each court was allowed a certain time to dispose of a cause, the Sculdasco four days, when, if undecided, it went before the Gastaldo, who was allowed eight days, under a penalty if he did not then decide, the party (plaintiff) having one half, the Prince the other. Upon a reversal too of the judgment, the Judge paid a penalty for his misdecision, half going to the party aggrieved, half to the Sovereign; and upon an affirmance of the judgment the appellant paid a compensation to the judge from whom he had appealed. The Judge also paid for thefts committed within his jurisdiction when the offender could not be discovered; and in all cases the party bringing an action was obliged to find security for the costs of his adversary, a rule which has been continued in Naples ever since.—No advocate was allowed to attend the Judge, and this was supposed to render the mode of proceeding expeditious. The trial, however, like that of all the barbarous nations, proceeded upon the absurd plan of not proving the facts by witnesses, and leaving the Judge to apply the law, but of deciding in favour of the party who could produce the greater number of reputable persons to assert upon oath their belief of his being in the right. When the matter was left in doubt by

* This, which in those days was deemed a refinement, was a law introduced by Grimwald as early as 668. Many centuries after this time the principle was so little established as regarded succession to the Crown, that both in France, in Naples, and in other countries, the denial of it was made the ground of contention, frequently of war. In England, John's succession, to the exclusion of Arthur, son of his deceased brother, was deemed a usurpation; but the dispute in Scotland between Baliol and Bruce (the competitor) turned wholly upon this point.

a balance of this kind of testimony (if we may so speak) recourse was had to the ordeal of fire and water, and trial by battle was also a part of the code. The compensation of crimes with money was nearly universal. Yet, that the Lombard code, with all its defects and all its absurdities, was successfully enforced, and with a salutary effect upon the manners and demeanour of the people, cannot well be doubted after the testimony of Paul Warnefrid: "There was this" (he says) "to marvel at in the Lombard kingdom, that you saw no violence, no assassination; no one unjustly despoiled his neighbour; no thefts, no robberies were committed; every one could go where he would in security and without fear."—(*Paul. Diac.* lib., iii. cap. 16.)

Like all the laws of the northern nations, those of the Lombards were personal; any one might choose to live either under them or under the Roman and Imperial codes. The Clergy, of whatever nation, lived under these in all parts of Italy; and so did the inhabitants of the duchy of Naples, of Amalphi, Caeta, and the other places which the Greeks retained. When Charlemagne conquered the greater part of the Lombard kingdom he made no change whatever in its government or its laws, except that for the north of Italy, the country now called Lombardy, he summoned the prelates as well as the barons and magistrates to the National Assemblies, and he and his successors made considerable additions at different times to the Lombard code. It was still further increased by the several Italian Princes who seized upon the kingdom of Italy after the death of Charles the Fat (Le Gros) in 888, overthrew the Frankish dynasty, and maintained a struggle for 70 years, when the Emperors obtained a firm footing and annexed Lombardy to their dominions. They, as well as the Italian Princes, during the long struggle added many laws to the Lombard code in the Diets which they held at Roncaglia, near Placentia. But they, as Charlemagne and his successors had done before them, everywhere retained the Dukes and Counts in their territories, removing none without conviction of some treason until their male descendants failed. The Salic or law of the Franks was never introduced into Italy during their possession of the Lombard kingdom, unless for the government of the Franks themselves or whosoever chose to live under its authority. Thus too the Normans in the south, when at

a subsequent period they conquered the duchy of Benevento, retained the greater part of its constitution and the whole Lombard law; and when they finally drove the Greeks from the south of Italy they extended that law over the whole provinces now forming the kingdom of Naples. The option of persons as to the law they should obey continued; but the influence of the Lombards, and of the Normans who preferred their code, in the course of time almost entirely displaced the Civil Law, which was only applied to the ecclesiastics, the Lombard code becoming the common law, and having far higher authority in all but the ecclesiastical courts. It is worthy of remark that, among the laity, the lowest classes of the people were the last to give up the Civil Law, continuing to live under it long after all the other ranks, even the middle and somewhat inferior, had abandoned it for the Lombard code. Historians and legal antiquaries have alike noted this as a striking proof of the slowness and reluctance with which the common people depart from ancient usages. It may safely be affirmed that, if left to themselves, they are of all the classes in every country the most wedded to established customs, and the most difficult to shake in their attachment to existing institutions.

But the Feudal System was likewise generally established by the Normans, and its customs gradually undermined many of those formerly in use under the Lombard law. The change was in some respects substantial, as admitting the ecclesiastical order to the National Assembly, which Charlemagne had done about two centuries before in the north of Italy; and giving the Barons many peculiar privileges, as that of being tried only in courts of which their own order formed a part—that is, by their peers—and the still more important right of being exclusively able to hold the higher military and civil offices. In other respects the Normans rather changed the name and the form than the substance. Thus the office of *Gastaldo* was said to be abolished, but the *Giustiziero* exercised the same functions, and the district under his government was called a *Giustizierato*, instead of a *Gastaldato*. The patrimonial jurisdiction previously exercised by private persons over the inhabitants of their property, as by Barons over their vassals and serfs, by the Church over its dependants, a jurisdiction unknown to the Roman law, and introduced by the northern nations, was by the Norman Princes

rendered subordinate to that of the judicial officers appointed by the Crown, the Chamberlain and Justiciary (*Camerario* and *Giustiziero*), to whom an appeal was given from the decisions of the baronial or ecclesiastical bailiff (*bailio*). These changes were principally introduced by Roger (son of Roger, first Count of Sicily, and nephew of Robert Guiscard), who first united the whole provinces of the continent and the island of Sicily under one monarchy, and was first called upon to declare himself king in 1130 at an Assembly, now termed a Parliament (*Colloquium*), held at Salerno, to which he summoned not only the Prelates and Barons, but other persons of distinction.* He did not, however, venture to take upon himself the royal dignity without the papal sanction. The Pope's pretensions to confer this title, so generally and so audaciously asserted, were more implicitly submitted to in Naples and Sicily than anywhere else, from the doubtful right of the Normans to the possession of countries which they only held by the settlement and the conquests of bands of adventurers. But the extent of these pretensions in this case even exceeded the ordinary insolence of the Roman See; for there was a claim preferred of feudal sovereignty, Sicily and Naples being considered as fiefs of Rome ever since Leo IX., who opposed Robert Guiscard, and was defeated and taken prisoner by him, consented to recognise him as Duke of Apulia, for which he on his part consented to pay a tribute. The double papal election of Anacletus and Innocent II. enabled Roger, by taking the former's part, to obtain the investiture of his whole dominions as a kingdom; but it was only in 1140 that he had completed the conquest of the continental portion by taking Troja and the rest of the Capitanata,† the last hold of the Greeks; the duchy of Naples having been taken the year before, when Roger gave great privileges to the conquered district, and preserved almost all the customs as well as property of the people. Meanwhile, Anacletus having died (1138) and Roger having failed in supporting another

* He is said to have summoned the persons most eminent for learning and other qualities (*Palmeri, Istor. di Sicilia*, cap. xx.). This may possibly have only been the magistrates and clergy.

† The Greek Emperor had established there a governor called *Catapan*, from the Greek words signifying universal, *i. e.* authority. Some derive *captain* (or capitano) from this word, and not from caput or capo. It is certain that the Catapan's district was called *Capitanata*. Our cant word, *toadeater*, comes by a somewhat similar process from *todito*, in Spanish a person of *all* work.

antagonist to Innocent II., he was attacked by the latter, but defeated and took him prisoner, which thus enabled him to obtain a final investiture as King of Sicily and Naples, on the condition, however, of holding them as fiefs of Rome, and continuing to pay tribute: this has ever since been paid, and the feudal superiority of the Pope in his temporal capacity been acknowledged at all times, whether in the weaker or more powerful condition of the Papal states. A privilege of more real value than any title was in the same age conferred by the Pope (Urban II.) upon the Sicilian King (1098). He was made Hereditary Legate (legate in fee, or fee tail, as we should say), an office conferred upon no other Sovereign, and which has at all times given the Sicilian Kings the supreme direction of spiritual matters, to the exclusion of any other Legantine commission in their dominions.

There seems good reason to hold, though this is matter of controversy between the Sicilians and the Neapolitans, that the royal dignity was conferred upon the Count of Sicily as King of Sicily,* and that the Continental duchies were considered as an appendage to the Sicilian Crown, although soon after they were also treated as another kingdom.† This dispute seems really to be about little more than a name. For while it must be admitted on the one

* It was the prevailing tradition in those times that Sicily had anciently been a kingdom; Alexander, Abbot of Telese, refers to this, and the Bull of Innocent II. for Roger's coronation cites it (*Gian. Ist. Civ.*, lib. xi. Introd.).

† There are two exceedingly different accounts given by historians of the manner in which Roger assumed the sovereignty, or rather the title, for he had received the sovereignty of Sicily from his father, as well as of the relative precedence of the Insular and Continental kingdoms. One class of writers, of whom Sigonius (*De Regno Italiæ*), Fazzello (*Decad.* ii.), and Inveges are the chief, describe a coronation of Roger at Palermo in May, 1129, as King of Sicily, Duke of Apulia and Calabria, and Prince of Capua and Salerno, by the Archbishop of Palermo and three Archbishops of the Continental dominions, and a second coronation in December, 1130, by the authority of Anacletus, as Pope, a Cardinal representing him at the ceremony, and nine years afterwards again by Innocent II. in confirmation of the former investitures. Others, of whom Alexander (Abbot of Telesino) is one, a contemporary author, himself present at the coronation under Anacletus, regard the ceremonial of 1130 as the first and only one; the Abbot indeed makes no mention of the Pope, but only of the meeting of the states at Salerno (*Hist. Sicil.* lib. ii. cap. 1);—Pellegrino and Giannone (*Ist. Civ.* lib. xi.) both follow this authority as regards there being no coronation in 1129, which appears to be the safer course—Galanti (lib. i. cap. 2) makes no mention of the controversy, nor of any ceremonial but the recognition, as he calls it, by Anacletus, in 1130, after Roger had assumed the title—Koch (i. 175) gives the same account—Mr. Hallam only mentions the coronation in 1139 under Innocent II. (chap. iii. part 1.)

hand that Roger and his two successors, William I. (the Bad) and William II. (the Good), made Palermo the seat of their government, it is equally certain that they never governed the dominions of Naples by Viceroys; that they appointed the Prince, the heir apparent, as the governor of the same districts; that they frequently resided in Salerno; and that the continental dominions were governed by the Lombard laws and magistrates, which never were introduced into the island. Roger however made the laws which he enacted common to both dominions, as he did the Great Officers of the Crown whom he created for the first time.

These were the seven officers, six of whom were known in the Northern Monarchies, from which he took them, and one from the Greek empire; the High Constable, or Commander of the Forces; the High Admiral; the High Chancellor, or Chief of the Magistracy and President of the Royal Council; the Chief Justiciary, who in rank was even above the Chancellor, though inferior to him in the importance of his functions; the Grand Chamberlain, who had not only the care of the matters relating to the royal person, but the control of the accounts; the Grand Seneschal, or High Steward, who had the regulation of the household and jurisdiction over all its members and all the inhabitants of the Palace, except of course the royal family; the Great Prothonotary, an officer of the Eastern Empire, and who in Naples was not mere head of the Notaries but a kind of Secretary of State. Except the Prothonotary, whose place may be said to be divided between the Vice Prothonotary and Secretary of State, all these officers have continued to the present time; with a great difference, however, in the functions of the Constable and Steward, which have become little more than nominal. But the most important changes which Roger introduced were some of the feudal customs of the North by which he supplanted those of the Lombard law: so that two classes of feuds were now recognised, those by the Lombard and those by the Frankish law; the principal difference of which was in the right of succession, primogeniture being the rule in the new feuds, and equal division in those that still went by the Lombard law, just as in England the Normans may be supposed to have supplanted the old Saxon rule of descent, which however still remains in Kent and in some manors of other counties. He made some wholesome laws for preventing private wars, and in 1145 he ordered a full survey of the whole kingdom, with a specification

of titles, lay and clerical, similar to our Domesday Book thirty years later.

The vigorous government of this Prince kept the power of the Barons within narrow bounds, and he made a solemn declaration, with the consent of a Parliament held at Arriano in 1140, that no portion of the Sovereign prerogative can belong to any Prince or Count. He gave knighthood to the Magistrates, probably with a view to counterbalance the influence of the Barons.*

The two Williams, son and grandson of Roger, did not rule with the same vigour; and the power of the Barons encroached on that of the Crown, as it did in France after the death of Charlemagne, from a like cause. The grandson (William II.), who married a daughter of our Henry II., died without issue in 1189; and he had some years before, with a view to this event, declared in the Parliament held at Troja, the succession to be in Constance his aunt, daughter of Roger, and who had married Henry, afterwards German Emperor by the name of Henry VI. Nevertheless from repugnance to foreign connexions this declaration was disregarded, and on William II.'s death the Sicilian Parliament chose Tancred, bastard of Roger, the eldest son of Roger I., but who had predeceased him. Tancred reigned five years, during which the Neapolitan Barons generally took part with Henry and Constance, but were kept in check by Tancred, who held a Parliament at Termoli to recognise his son Roger, and afterwards had him crowned King of Sicily at Brindisi; the first time that any coronation had been held out of Palermo. Roger having died,† he had his other son William crowned, but left him a minor at his death, when Henry, the husband of Constance, invaded the country, and after a long contest got possession of the Crown and founded the Swabian line.

He was succeeded by his son Frederick I. (Frederick II. as Emperor) in 1198, who may be considered as the principal author of the system of laws that has prevailed, and of the polity

* Cruel and barbarous punishments, or precautions against persons deemed formidable, were usual in those times, and were probably, in part at least, left by the Saracens and Byzantines. Thus the eyes of persons of condition were put out, and they were mutilated, on being cast into prison for life, to prevent a continuance of their race. Hamstringing prisoners was also a frequent punishment. As in Eastern palaces, eunuchs were to be found in those of the Sicilian and Neapolitan Princes after the Saracens had been expelled.

† It is singular that Galanti (lib. i. cap. 2) makes Henry dethrone Tancred. It is certain that he died King, and of grief for the loss of his eldest son.

that has been for the most part established ever since in the Monarchy. His long reign of fifty-three years was spent in repressing the baronial usurpations and establishing regular and wholesome government over the country. A considerable number of his laws were renewals and enforcements of those which had been made by the two Williams. The first, justly called the Bad, whose oppressive and extortionate reign had raised several rebellions against him, in one of which he was dethroned by the Barons and only released from prison by the interposition of the multitude, had on his restoration given important privileges to Palermo. But he was also the author of valuable reforms, among others the establishment in 1162 of the *Magna Curia*, or Supreme Court of the Grand Justiciary and his assessors, having jurisdiction over both kingdoms; the prohibiting on pain of death the Judges, from the Grand Justiciary to the inferior ones, successors of the Gastaldi, to execute their office by deputy; prohibiting also the Bailiffs, successors of the Sculdasci, to receive bribes for omitting the duties enjoined by the Courts; tracing more exactly than before had been done the limits of the jurisdiction exercised by different Courts, as well as obliging them to administer the several laws established; and abolishing the sale of judicial and other offices. William II., whose virtues and wisdom formed a striking contrast to the character of his father, left but very few laws, and those chiefly extending the Ecclesiastical jurisdiction, which doubtless has increased the panegyrics of the monkish historians upon the merits of this Prince.

It is certain, however, that beside enforcing the laws of his predecessors Frederick I.* was the greatest legislator of the Monarchy, and may be regarded not so much as its second founder, but rather as having done far more towards its establishment than Roger himself. He effectually controuled the power of the Barons; banished such of them and such of the Prelates also as followed seditious courses; destroyed their strongholds and prevented their building any new fastnesses; and instituted a rigorous inquiry into their titles to grants and privileges, confirming or revoking these according to the result. This important and somewhat violent operation was undertaken at the Parliament of Capua in 1220.—But he also prohibited the con-

* He is commonly called Frederick II., his title as Emperor of Germany: so Charles I. of Spain is more frequently called Charles V. for the like reason.

version of allodial into feudal property, and annexed penalties to the act of making a free person in any domain a serf. This restraint was the subject of remonstrance with the Barons, who maintained for some years a struggle against it, and were defeated.—But his encouragement of the towns was perhaps the most effectual check to the Baronial power, as it certainly led to the most important change in the constitution of the Parliament. Whoever purchased any property in towns of the royal domain was exempt from all Baron's jurisdiction; no domain tenant could hold any property in a Baron's fief, but Baronial tenants were allowed to hold property in domain cities without being feudatories to Barons. To become a feudatory was made a crime in a domain tenant, punishable capitally for the third offence. Many towns were declared domain which were not in the royal domain, but received all the privileges of such; and four deputies from each were summoned to the Parliament in addition to the Prelates and Barons, the Baillies and other officers of the Counts, and two deputies from each district and each castle.—It was ordered that a Parliament should be holden twice a-year, in May and November, for eight or if necessary for fifteen days, and to meet sometimes at one city and sometimes at another; and the liberty of stating grievances and making complaint of magistrates and administrators was expressly given to every one, whether priest or layman.—He prohibited private war, trial by duel, and that by ordeal; but he enlarged the power of the Grand Justiciary, and appointed a superior court for both kingdoms: he required evidence to be by the testimony of witnesses and of written instruments; and he prohibited the nomination of any judicial officer excepting by the Crown, or the exercise of any communal jurisdiction by private persons.—He provided for the gratuitous decision of causes in which the interests of widows and orphans, minors and the poor were concerned, and prohibited all payments to Judges excepting the salary they received from the Crown.—In 1231 he caused a digest to be made of all the laws, both his own and those of his predecessors, and to be promulgated as the code of the realm under the name of *Constitutions*, abrogating all laws and customs inconsistent with them. The basis of Frederick's Constitutions was the Lombard Law, but he also introduced portions of the Civil Law into them. Of the Frankish codes he borrowed little except the law of primo-

geniture; of the Decretals or Papal Law, nothing. He published his code in Greek and Latin, both languages being then the prevailing ones, at least in written composition. His Chancellor, Peter delle Vigne, a man of great learning and capacity and of consummate integrity, is understood to have been the author of most of these important reforms. It is certain that he presided over their preparation and execution. It is equally certain that he reaped the usual reward of those who best serve even the ablest Princes: he was disgraced, persecuted, and finally put to death upon charges of treason now universally believed to have been groundless.* This Prince, however, encouraged learning, caused Aristotle to be translated, restored the University of Naples, and instituted several professorships, particularly one of Civil Law, which since the copy of the Pandects was found, about a century before (1137), at Amalphi, had been more studied and had acquired a higher authority, although it appears that this work had not even before that discovery been unknown to the learned.

On the death of Frederick in 1250 succeeded a period of strife and change and invasion which lasted for fifteen years. Innocent IV. and Alexander III. both overran parts of the country and established themselves for some time at Naples, on the pretence that, Frederick having died whilst excommunicated, which he had been for resisting the encroachments of the See of Rome, his kingdom as a fief of the See had become forfeited: but they could not succeed in their attempts to seize the Crown of Sicily and Naples; and Alexander III. called in Charles of Anjou and Provence, brother of St. Louis, who completed the conquest of the country. He was crowned King at Rome in 1266 acceding to the pretensions of the Pope as feudal lord of the kingdom: thus terminating the Suabian and founding the Anjou dynasty, the former of which lasted seventy-two years over both Sicily and Naples, the latter seventy years over Naples, but only six over Sicily; for the oppressive government of the French roused the inhabitants to the massacre of them in 1282, known by the name of the Sicilian Vespers, and the calling in Peter of Arragon,

* Frederick's protest against the Papal usurpations in 1245 was a remarkable instrument. After enumerating all the heads of these, it adds—"Such enormous injury and such infamous usurpation we can no longer tolerate in these days."—His eyes were put out, and he is supposed by some to have killed himself in prison.

founder of the Arragon dynasty, which held Sicily 204 years, and ruled over Sicily and Naples together 214.

It would be difficult to say whether those noble dominions suffered most during the long period of the French Kings or the still longer of the Spanish. In the former, the evils were intolerable which arose from such fruitful sources of mischief; the shameless extortions of the Princes; the insolence of foreigners; the systematic preference of them over the natives by the Court; the necessity under which the first princes at least were placed to suffer the revival of feudal tyranny by the Barons, whom they could not afford like the Rogers and Fredericks to restrain; and the hostile attitude in which the separation of the Insular and Continental dominions placed them to each other, when their neighbourhood and ancient connexion made it the interest of both to live in amity and union. In the Arragonese period the Crown was as despotic, but for that very reason the Barons were less powerful, and if the Spanish character was more harsh than the French, it was less active and more indifferent, so that, notwithstanding the cruel disposition of the rulers and their agents, upon the whole the Spanish dynasty did not leave a worse name behind it than the French. But there can be no doubt that the still longer period which followed outstripped both the French and the Arragonese in its mischievous effects upon the progress of the government and the prosperity of the country. The viceregal administration for nearly two centuries and a half,* when Spain continued to possess both Sicily and Naples, but governed both by lieutenants, not by resident sovereigns, presents a picture of the very worst government which has been known in modern times and in the West of Europe. During the dismal period of nearly five centuries of foreign dominion, either under resident stranger Princes or lieutenants of absent Sovereigns, there seems hardly more than the reign of Ferdinand I. upon which we can fix our eye with any feelings of satisfaction. His father, Alphonso I. (the Wise), having been a patron of learned men, has, as never fails to hap-

* Sicily had been governed by Viceroys since 1466, when Alphonso succeeded to the Crown of Arragon and sent a Viceroy to Sicily. But in fact his father, Ferdinand (the Just), who was likewise King of Arragon, having succeeded his uncle Martin II. in 1412, governed Sicily by a Prince, an Infante of Spain, Don Juan, who might be regarded as rather a Viceroy than a Regent, so that Sicily was under Viceregal government for above three centuries.

pen, been loaded with the praise of historians. But he greatly increased the number and the power of the Barons, confirming many of the privileges which they had extorted from Joanna I. and II. during their troubled reigns, and restoring even the jurisdiction which Frederick I. had with a firm hand wrested from them. The bribe which induced this "Wise King" to grant them such a boon was their agreeing to take his bastard Ferdinand (who eventually proved an admirable King) as his successor, at a parliament held in 1452.—He did his utmost to convert the country into a pastoral territory, more like Tartary than Europe, and appointed a set of revenue officers with absolute controul over all the actions of all owners of cattle.—He introduced from Valencia, where it had long been established, a council, called at Naples that of Santa Chiara, from the convent where its sittings were held, and called also the Santo Concilio: the King himself was supposed to preside in it, but came to be represented by a president: it was a court without appeal, and beside deciding causes arising on feudal matters, the most important of any in the country, it held jurisdiction over districts touching the election of magistrates and the rights of nobility and other claims of rank.—He introduced the new practice of never calling parliament together but when he wanted money, and excepting upon the question of supply never consulted that body at all; and he made the obtaining supplies the ground of all the favours he conferred upon those who composed the body. His son, Ferdinand I., who has not been the object of literary adulation, was a great public benefactor, though of a cruel disposition. He improved and simplified the administration of justice, enforcing by an ordinance in 1472 the observance of Frederick's Constitutions, which had been by his predecessor grievously neglected.—He succeeded in curbing the Barons; and though compelled by their turbulent resistance, in which they received the countenance and support of Rome, to allow them certain privileges, he yet effected their disarming and the disbanding of their soldiers—a task rendered at once difficult and necessary by their having such means of resistance, that in a single fortress (Sarno) there were found no less than forty-seven pieces of excellent artillery.—He established viceroys in the provinces, withdrawing them from the jurisdiction of the Counts in the capital, and gave them a municipal administration.—His principle being that the true wealth

of a Prince consists in the resources and the prosperity of his individual subjects, he lowered his taxes and encouraged their industry by the wisest provisions, securing to all the free disposal of their labour and their possessions, by prohibiting the impositions and extortions of the feudal lords. Some of the most valuable branches of industry were introduced by him, among others the cultivation of silk and wool; and the art of printing, of which he already perceived the immense importance, was established by him at Naples. His exertions for the fine arts, and to embellish both the capital and provincial towns, how meritorious soever, were of less importance than these great and substantial improvements. Nor can we much commend, though in that age it would excite little wonder, if he fell into the more ordinary track of endowing Chantries and founding Monasteries.

The salutary measures of Ferdinand, and the rudiments of further improvement, the germs, especially, of popular rights which existed in the constitution of the Parliament as Frederick had reformed it, and the privileges which he gave the principal towns, would in all likelihood have led to a better form of government and to a happier administration of public affairs, had not the mischiefs of the Imperfect Federal Union (Chap. XV.), aggravated by the distance of the seat of Government and the consequent evils of viceregal authority, interposed to check all progress towards the attainment of free institutions and a sound public economy. Upon Ferdinand I.'s death the schemes of the Pope in aid of the Neapolitan Barons were revived; and Charles VIII. of France, renewing his claims as representing the House of Arragon, was encouraged to invade Italy by those dissensions, and by the arts of Milanese as well as Neapolitan intriguers. He overran the whole country and drove Alphonso II., Ferdinand's successor, to abdicate in favour of his son Ferdinand II., who also fled before the French. Their occupation however of the country was but of short duration; for a general league of Italian powers with the Emperor Maximilian and the King of Arragon compelled them to evacuate Italy and retreat into France.* Soon after Louis XI.,

* Historians (*Robertson's Charles V.*, vol. i. sect. 2) have considered this league as the origin of the principle commonly called the balance of power. But so obvious a plan could not be unknown in almost any age. Accordingly the doctrine in all its refinements was the subject of discussion among the statesmen of Ancient Greece. The oration of Demosthenes for the Megalopolitans turns mainly upon it.

in league with Ferdinand of Arragon (the Catholic), again invaded Naples, and dethroned Frederick II., who had succeeded his nephew Ferdinand II. The two allies quarrelled about the division of the spoil, but the Spaniards completely defeated the French, and retained possession of the continental dominions, having before obtained Sicily by descent from John I. of Arragon, to whom it had devolved upon the death of Alphonso I. in 1416. The two kingdoms were then held together by the Spaniards during the whole of the sixteenth and seventeenth centuries. They were separated for about thirteen years at the beginning of the eighteenth century; Sicily being given to Sardinia by the treaty of Utrecht in 1713, and held by her till 1720, when they were again united until 1738, under the Emperor Charles VI.; and when he renounced the Sicilian and Neapolitan Crowns they fell to a branch of the Spanish Bourbons, descended from Philip V. In their possession these kingdoms have remained ever since, with the exception of the occupation of Naples by the French in 1799, and afterwards from 1806 to the fall of Napoleon in 1815. On both these occasions the Bourbon family retired to Sicily; and during Napoleon's time Naples was held as a kind of dependent kingdom, first by his brother Joseph, and then by his brother-in-law Joachim Murat, who indeed retained it during his first deposition in 1814. But during the whole of the time from the beginning of the sixteenth century to the present day, excepting from 1738 to the first French invasion in 1799, the Imperfect Federal Union, either directly or indirectly, operated to affect the polity of Naples, and almost always that of Sicily too. Even at times when there has been a nominally independent dynasty, and the Neapolitan Sovereigns have not possessed any other dominions, there has yet been a powerful influence of foreign force exercised upon the domestic affairs both of Sicily and Naples. Joseph and Joachim governed, and they maintained the policy of Napoleon in the continental dominions, through the force which Napoleon could at any moment bring to bear upon whatever resistance might be offered. In the island the English alliance was as effectual a preventive of all opposition to the Bourbon measures, and as powerful a support to the constitution which England made them substitute for the more rude scheme of the ancient government. The efforts of the Patriots in

1820 to obtain a more free constitution were opposed by the direct interposition of the Holy Allies acting with their armies in aid of the Bourbon Princes, whom they affected to controul, but really came to restore; and to this day the friends of liberty and improvement in those countries are effectually prevented from forming any plans for the change of their constitution, by the knowledge that their first success against the existing order of things would be the signal of an Austrian army marching to Naples.

In the constitution of which we have traced the history, or rather the historical outline, next to the Sovereign, and as the only institution at all interfering with his power, must be considered the Parliament; for the resistance which he encountered from the Barons was, like the struggle of a government with the people, an appeal on either side to force, and a conflict in which the warfare was various and the success fluctuating. As long as Sicily and Naples were united, that is, from the time of Roger to the Sicilian Vespers in Charles I.'s reign, during a century and a half, there was a Parliament for both kingdoms. It sometimes met in the towns of the Island, as Palermo, Syracuse (1233), and Messina (1221); sometimes in those of the Continent, as at Capua (1220 and 1227), Tarento (1231). Nay, Frederick I. sometimes held those assemblies in his other dominions, as at Ravenna and Cremona. But after 1282 the separation of the two kingdoms for above 160 years made it necessary to have a separate assembly for each; and when they were again united in the sixteenth century the Parliaments were kept distinct, the Sicilian having acquired a more regular form and greater consistency than that of Naples: the latter, instead of being held in various towns, came to be always held in the capital, insomuch that its inhabitants remonstrated when Alphonso I. summoned one at Benevento, and he yielded to their request, holding it in Naples. There never was any regular time of assembling: for Charles I.'s rule of meeting every two years was soon disregarded: the meeting was occasional, when the King had some new law to promulgate or some aid in money to ask. Sometimes, as in 1257, they acted judicially. Their composition was similar, and we have no distinct account of their proceedings. In 1642 the Neapolitan Parliament was held for the last time, until the Constitution given by Napoleon restored

some semblance of it. During the long period which intervened between its disuse and its revival in 1808 the only thing like a legislative body was the *Sedili, Seggi,* or *Piazze* of the towns. These were the remains of an old Greek custom of the principal citizens in the democratic towns meeting in the porticos to consult. Originally at Naples eminent commoners were admitted to them; afterwards only the nobles, except in the one called the people's Seggio. They met, however, without any summons from the King, sent deputies to the Parliament, and deliberated on public affairs generally. In the thirteenth century there were twenty-nine of these Seggi; afterwards by uniting many of them the number was reduced to five; their privileges were gradually restricted; they were chiefly used for obtaining votes for money and for purposes of police, each Seggio choosing a delegate then called *eletto* (like the French *elu,* Chap. XIII.). Of these *eletti* there were seven; the people chose one in their own Seggio; and they together formed a municipal body. The Seggi or Sedili of the capital continued to the period of the first French invasion; they were only abolished in 1799.

The two councils of the Crown, the supreme *Giunta degli Abusi* and the *Camera di S. Chiara,* could in no way be regarded as any checks upon its power, for they were entirely under its controul, and the members held their places during its pleasure. They were instituted, the former in 1767, composed of the president of the Council of Santa Chiara, already described as created by Alphonso I., the Secretary of State for Church affairs, the King's confessor, and other Ecclesiastics, and having the revision of clerical matters chiefly; the latter in 1735, as a substitute for the *Consiglio Collaterale* which Ferdinand the Catholic had created in 1507, on the model of the Council of Arragon to assist, watch, and controul the viceroy. When the Sovereign became resident in 1735 the vigilance and controul was no longer required,* and the new Council or Chamber became the one in which the most important of the regal functions were exercised. It consisted of the President of the Council of Santa Chiara, four Counsellors, and several lawyers. Its meetings were three times

* Ferdinand had another Council, called the Italian, near his own person, composed of Sicilians, Neapolitans, and Milanese, as well as Spanish Ministers, for the administration of his Italian dominions. The Sicilian and Neapolitan Collateral Councils had also a proportion of Spanish Ministers.

a-week privately in the President's house. It had the censorship of the press; confirmed the decrees of the Council of Santa Chiara, but on the report of the President, common to both Chamber and Council; revised all sentences of death, forfeiture, and torture; determined all questions touching the jurisdiction and powers of other courts; and advised the King on new laws, and generally on the administration of domestic affairs.

The Courts of Justice were no checks any more than the Councils. The Judges were removable, and they only sat occasionally in public. There was in each of the twelve provinces into which the kingdom has been divided ever since Alphonso I.* an Udienza or Court which succeeded to the Court of the Giustizieri or Gastaldi, who were required, as we before saw, to have assessors (Uditori). These Courts, beside sitting in appeal from the inferior Courts of the Provinces, also administered its government. A most intolerable practice grew up under the Viceregal government, that of having extraordinary or special Judges for districts, or for particular estates, lay or clerical, or even for particular cases, sent by the government, and called *delegates*, who proceeded not according to the ordinary course of the law, but according to the royal instructions under which they acted, and from whom no appeal lay but to the Crown. In modern times these delegations were confined to criminal cases of great delinquency, and to expediting the execution of decrees where there was no dispute. The High Court of Appeal, called *Gran Corte della Vicaria*, the remains of the Magna Curia established by William I. in 1162, as we have seen, abolished by the Anjou Kings, and restored under this name by Charles II., had appellate jurisdiction in all causes criminal and civil from all Courts in the kingdom expect the Council of Santa Chiara. It was divided into branches or *ruote*, civil and criminal, of which the former have each three, the latter four Judges, and each a Councillor to preside. The *Gran Giustiziero*, in modern times an honorary office, nominally presided, but the real president was the Regent, a noble, who distributed and arranged the business and sat in one of the *ruote*, but without any vote. The *Vicaria* was the ordinary Court for Naples, beside its appellate jurisdiction. The Civil Judges were chosen from among the Lawyers, the Criminal from the Provincial officers of justice; and the consequence

* The nine Giustizierati then became twelve.

was that the former were of higher estimation than the latter. Another capital defect was the privilege which the nobles of all parts of the kingdom possessed; if they happened to have been born in Naples, of claiming the Vicaria as their Court in case of their being prosecuted for any offence, instead of being tried by their Provincial Courts. The capital had many important privileges; indeed might be said to live under a different law from the Provinces, as regarded the important matters of confiscation, torture, and imprisonment; and this inequality continued down to the second French invasion of 1805.

While the Crown held foreign dominions and could bring their force to bear upon the Parliament and the aristocracy, and even when it held only Sicily, it is plain that nothing but the fear of resistance could set bounds to its power. Accordingly this sometimes prevented measures from being persevered in which the Court had resolved to carry. Several attempts to introduce the Inquisition were made and abandoned in consequence of popular movements.*—A plan for the sale of the Royal Domains was given up after a considerable portion had been purchased. As this transfer would have made the cultivators feudal tenants and liable to all the usual oppressions of such, it excited discontent which broke out in acts of violence, and it was abandoned upon their agreement to indemnify those who had actually purchased.—In 1644 the Spanish Viceroy applied to the *Seggi* for aid in money to Spain, having already sent men thither; and the tax he called on them to approve was one upon fruit and vegetables, the food of the people in summer. The Seggi at first refused but afterwards consented; and this was the real cause of the famous rebellion under Thomas Aniello (commonly called Mas Aniello), which, extending over the kingdom, led to a long and violent struggle, aided by the French, was only prevented from overthrowing the Spanish dominion by the nobles holding back through jealousy of the people, and was finally suppressed, the Seggi agreeing to a house-tax, and the Crown giving up the duty that had caused the revolt.

The Parliament of Sicily, which from the year 1282 became a separate body, originally resembled closely that of Naples; but

* In Sicily it was introduced for some time and with full power; but the people were resolved to curb it, and frequent assassinations, operating by terror, reduced its authority to little more than a name.

it was held more regularly, and it lasted much longer in its ancient form, in fact until 1812, when the new Constitution consolidated its structure and enlarged its functions; and there are therefore more full accounts of its nature and history. During the separation of the kingdoms, the capital, Palermo, has been the most usual place of meeting, though it has also met at Messina, Catanea, Syracuse, and elsewhere. It was called by the King or Viceroy, but in urgent cases the Barons themselves have called it, as they also did at Naples no longer ago than 1524 and 1621. It consisted of three orders or branches (arms, *bracci*); one of the Prelates, that is, three Archbishops, six Bishops, forty-six Abbots, and six Priors; the second of the Barons and feudatories performing military service to the Crown, fifty-nine Princes, twenty-seven Dukes, thirty-seven Marquises, twenty-seven Counts, one Viscount, and seventy-nine Barons; the third of the cities and estates held under the royal domain.

Those unable to attend sent proxies to represent them, but as early as 1522 the Barons bound themselves only to choose proxies each of his own order. The towns sent Deputies, forty-three in number, and sometimes several towns joined in sending the same Deputy, although this was objected to as irregular. So a Deputy might have more than one vote by representing different towns, and a Baron by having domain towns in his barony; but a law of Philip I. limited the number of votes to three, and required all but the Clergy and Nobles to attend in person, confining proxies to these orders. They were, as we have seen, first summoned in 1240, a few years later than there is every reason for thinking they first were represented in our English Parliament.* Frederick in 1240 summoned two Envoys or Deputies (*Nuntii*) from each city and one from each castle in the royal domain. These Envoys or Deputies were the Chief Magistrates, Bailiffs (*Bajuli*), or Mayors (*Syndici*), but of late years the representative was the attorney employed by the domain town, and residing in Palermo. The other towns, the Baronial, were not represented, nor were the country districts, as the Barons were supposed to represent all the men of the Barony. The purpose of their coming as set forth in the writ was that they might "see the majesty of our countenance and carry back to you our

* England 1225; Germany 1293; France 1303; Castile 1350; Arragon as far back as 1133.

will and pleasure." The Sicilian towns obtained a more corporate form of government from Frederick II. in 1322. They were to choose their Mayor or Bailiff (*Bajulo*), in some called Patrician, in others Senator, yearly at a public Council of the Burgesses and people, without any interference of the Barons or Knights, who were excluded from holding office. Repeated prohibitions of their interfering at elections seem to have produced no effect; for they soon got the whole power into their hands. In the Norman times there were only the two orders, Prelates and Barons; in the Swabian, town Deputies often were summoned; in the Arragonese, they always formed a part.*

The occasions of calling a Parliament were anciently such as these—to levy new taxes; to appoint a Regent or Vicar, as on the deposition of a King; to associate the heir apparent in the Government; to swear fealty and to do homage at a coronation; to promulgate laws which the King made by edict. But subsequently the consent of the three orders to new laws was asked; and although there is a question whether two out of the three could bind the whole, the better opinion seems to be that the

* The writ ran thus: we translate the first of Frederick I. to Syracuse:—"To the Bailiff, Judges, and all our faithful subjects of the town of Syracuse greeting. Whereas for the peace and quiet of our Island of Sicily, to which we have kindly turned our care and solicitude, we have appointed a general Parliament (Generale Colloquium) to be holden at the feast of Epiphany next ensuing at Heraleia, in which we will that the Syndics of the cities, towns (terræ), and most famous places of Sicily should be present, we command you upon your allegiance that forthwith on the receipt of these presents you do unanimously and harmoniously (unanimiter et concorditer) choose and approve from the better and sufficient persons among you (melioribus et sufficientibus) two Syndics our faithful subjects, and, so chosen and approved, send them provided with the authority of you all, with the decree of election and approval, to the place and at the time aforesaid, in order that we may have them without fail (infallibiliter) along with the Syndics of the other cities, towns, and places, on the said Feast in the said Parliament; to which your Syndics you shall pay or cause to be paid their reasonable expenses out of any monies belonging to your corporate body (universitas); and if for want of such monies you provide no expenses, that you intimate the same in your letters to us, sending the Syndics to us as aforesaid in order that we (nostra celsitudo) may provide the same. Given at Palermo under our Privy Seal."—It is impossible to read this writ, so closely resembling the early writs by which our own Parliaments were summoned, but of which we have no authentic remains so early (for this was in the middle of Henry III.'s reign), without reflecting on the very different structures which have been reared in the two countries on a foundation so much the same. Nor can the diversity be accounted for in any way except, as we showed in comparing the French and English constitutional history, by referring to the effects of the Imperfect Federal Union (Chap. xiii. and xvi.) and of foreign powers and the Popes.

assent of the Prelates with either of the others was sufficient.* In 1786, however, a law restoring the duty on tobacco and repealing the substitute for it, was assented to by the Prelates and towns, and because the nobles dissented the King's answer was "that he would consider of it and let them know his resolution." He had given the same answer that year on a sumptuary law, which had only the assent of the nobles. All supplies purported to be "by the three estates constituting the whole kingdom, of their free and spontaneous will, with every readiness of mind, granted, voted, and concluded."

The members were free from all process, civil and criminal, for three months. The three estates assembled at first in one hall, where the Viceroy made a speech, explaining the necessities of the Crown, to which a Prelate made, as in the Cortes of Arragon,† a reply on the part of the whole, when all departed; and some days after each estate met in a separate place. In 1286 James stated that the occasions of supply or donations were only four—invasion, ransom of the King's person, his taking the command of the army, and the marriage of his daughter. But in after times no such limitation was regarded, although Martin in 1407 repeated the same statement. They were not allowed to discuss anything which the Crown did not lay before them; but they might annex what conditions they pleased to their grant of supplies, and might make a bargain with the Crown. Although for many years the obtaining of supplies, that is confirming old donations and granting new, formed almost the only business of the Parliament, it is yet certain that almost all the old laws of the Monarchy have been made in the Parliament.

In the time of Frederick I., as we have seen, at the beginning of the thirteenth century, the Parliament met twice a year, in May and November. A century later, in Frederick II.'s time, it met once a year, in November; but sometimes the state of the country, from wars and other causes, prevented any meeting for a length of time, as during the interval between 1671 and 1680, and again from 1690 to 1698; and for many ages it had only met once in three years, as all taxes were granted for that period, at

* A law of Philip III. seems to enact that, if any two estates agree on a measure for the public good, it shall have the same force as if the three had assented.

† The Cortes was opened with a speech from the throne, to which the Archbishop of Saragossa returned an answer on the part of the Cortes.

the end of which the Parliament was assembled to renew them. The assent of the third estate became so much assumed as a matter of course, the Deputies being entirely under the influence of the Nobles, that the Commons are represented by some writers as hardly ever meeting. The Parliament never interfered with the levying duties on imports and exports, this being always held a part of the royal prerogative.

When the session ended, which it did in a few days, a kind of commission, called *Deputati di Regno*, was appointed to superintend the execution of what had been ordered. Those Deputies (resembling the Commission of the Cortes in Arragon and Valencia, and of the General Assembly of the Church in Scotland) were first formally appointed in 1474, though they were known as early as 1446. They were at first chosen by the Estates, three by each, and at various times exercised considerable power. Once, in 1578, they chose a body of Magistrates. Of late years they had always been Prelates and Nobles, four for each Estate, and all appointed by the Crown or Viceroy. They distributed the taxes voted, and superintended the levy of them; and they took charge of public works and the population returns.

The feudal system prevailed in the Island, as in the Continental kingdom, and with it the hereditary tenure of even the highest offices, after having been first granted during pleasure and then for life. Thus in 1336 Frederick II. gave the place of Grand Chamberlain to a person and his heirs, with power to let the heir into possession during his life. Peter I. made Blasco Chief Justice, with power to choose a successor in his family, which he did, appointing his eldest son by will. The same person was also Grand Marshal or Commander-in-Chief. The office of High Admiral was in the Doria family. The Presidency of the Parliament was hereditary in the Butera family.

In Sicily, as in Naples, the payments and services to the Barons were most oppressive. The nomination of Judges, though generally requiring the approval of the Tribunal of Patrimony in modern times, was in some places absolutely in the Baron. Feudal services and the other incidents, as fines, reliefs, marriage, labour, were severely exacted. But tithes were also paid in both kingdoms, and paid to the Lord as well as the Church. They varied in every part of the country, from one-thirtieth to one-twentieth, one-sixth, and even one-fifth of the

produce. In some places even the cattle used in tillage paid tithe in corn. The domain towns exempt from feudal burthens alone flourished; the wretchedness of the others was striking to the most cursory observer. The oppression was considerably greater in Sicily than on the continent. The island at the conquest by Roger was divided into three parts, one-third being given to the Church, that is the Clergy and Monasteries; one-third to the officers of his army, that is to the predecessors of the nobility; and the remaining third reserved to the Crown. The two former shares are exempt from direct taxation, and the Clergy are besides free from custom upon imported goods—a privilege which they give to their families if they reside in them, and can even sell if they have no relatives. In the kingdom of Naples three-fourths of the land were always in the possession of the Priests, the Monks, and the Nobles; of the latter there have generally been reckoned 6000 in the whole kingdom, and of these 1500 in the capital. The policy of the Court of Spain was to humble this class, which it unremittingly attempted by making laws and modelling the Courts in such a manner as to involve all property in endless litigation and all titles in doubt. The description which some lawyers have given of the state of the country under this worst of all tyrannies, can only be compared with the dark picture of the Roman manners which Sallust has drawn as the preface to the Cataline conspiracy.* But the same Nobles over whom the Court thus tyrannised were permitted to exercise equal oppression over the inferior classes; and although both in Sicily and in Naples the Government held a far more virtuous and more wise course under Charles VII. and Ferdinand IV., after the termination of the Viceregal administration in 1735 it is not to be denied that both the slow progress which has been made in improvement with every natural advantage, the numberless abuses that exist, and the poverty and oppression so generally complained of, may be traced to the long and dismal period of the Spanish yoke. Spain has hardly

* See particularly Galanti, lib. i. cap. 3, sect. 8. Nor was there anything like a good police to make the compensation which the Austrians generally give for an odious foreign yoke. In the seventeenth century we find bands of robbers everywhere setting the Government at defiance, one of them under an Abbot; the coin openly clipped and counterfeited by persons of rank; and these practices carried on in the palaces of the Nobles and the monasteries, where the monks were peculiarly skilled in coining.

been a greater curse to the New World, of which she discovered and embittered the existence, than to the fairest portion of the Old, over which she usurped and abused the dominion.

That the most grievous maladministration of justice continued notwithstanding the reforms of Charles and Ferdinand down to the period of the French invasion in 1799, we have the testimony of one of the ablest writers on jurisprudence who has appeared in any age or country. Filangieri, who wrote between 1780 and 1788,* describes the judicial office as exercised on the fiefs of the Nobles, in number approaching to a thousand, where the Judge was appointed from year to year, and, as if that might make him too independent, gave a bond to resign at the Lord's will, and received a salary less than the wages of many servants; and he affirms that the Lord and Judge are in constant league, and compound for money the crimes proved or charged against those who can afford to pay. The appeal was to the Provincial Court of three Judges named by the Crown and removable at pleasure, but so ill paid that they could not live without corruption; so at least we must interpret Filangieri's assertion that they "are compelled by their low salaries to choose between injustice and poverty." Nor is their own pillage all that he complains of, they are represented as conducting their inquiries into the facts of any case by agents who purchase their places, and having no fixed emoluments live by plundering the suitors. The first operation of these agents was throwing into prison a great number of persons accused or suspected, as well as almost all the witnesses, and then releasing them on whatever bargain they could make, any circumstance discovered, or pretended to be believed, only furnishing new means of extortion. The guilt was thus always fixed on some poor person who had no means of purchasing his escape. It may safely be asserted that no traveller has drawn a darker picture of the proceedings under the most corrupt and most oppressive despotisms of the East, than Filangieri has of the Neapolitan system on the eve of the French revolution.

The occupation of the Continental Kingdom by the French in 1799, and the Parthenopean Republic which they founded, lasted a few months, and produced no permanent change in the government. In 1808 Joseph, with the concurrence of Na-

* Scienza della Legislazione.

poleon, gave it, when he resigned the kingdom, a new constitution, imperfect indeed, but a great improvement upon the old. There was a Parliament composed of five colleges or chambers of twenty each; one of the Clergy and one of the Nobles named by the Crown, and both for life; one of landowners chosen yearly by the two hundred inhabitants most highly taxed of the several districts and who retained the elective franchise for life; one of learned men selected by the Crown and for life, out of lists of 60 furnished by universities and higher courts of justice; and one of merchants selected yearly by the Crown from lists furnished by commercial bodies. The vote by ballot was in all cases established. The Parliament deliberated in secret. To publish its proceedings was treason. It had the sole power of imposing taxes, and its consent was required for all legislative enactments.

During Joseph's reign the government was as absolute as it ever had been; and Joachim (Murat) never carried into execution the Constitution left by his predecessor, but followed his example by leaving a Constitution when he quitted Naples in 1815: it was more liberal than Joseph's, having two Chambers of Parliament, and allowing the freedom of the press; but, like Joseph's, it was a dead letter. In Joseph's time, however, most important changes were made in the judicial and administrative system, which Joachim continued; and the Feudal Laws were abrogated, the claims of the Barons being disposed of by a Commission which sat for two years, and disposed of in a somewhat arbitrary manner. These valuable improvements have been retained since the restoration of the Bourbons, and form the basis of the existing system. They were framed upon the plan of the French administration under the Code Napoleon. A new body of laws, founded also upon that Code and the civil law, was promulgated in 1819 for the whole monarchy, island as well as continent, in six codes; a valuable change of the old, various, confused laws, partly customary, partly written, under which the different parts of the kingdom were governed.

The division of the Provinces into districts and subdivisions, introduced by Joseph, has been retained, and the courts established by him, their names only being changed, are substituted for the old Councils, Guintas, Cameras, and Vicaria, which he abolished. His Intendants or civil and financial administrators

of provinces, are continued, with their sub-intendants and councils of three for each province. His mayors (*synaci*), aldermen (*eletti*), and council (*decurioni*) of towns or parishes (*communi*), have been found sufficiently consistent with the royal authority; for each of these functionaries is appointed by the Crown from lists presented by others, also named by the Crown. His *juges de paix* are now called *guidici reali*, from whom there is an appeal to the *Tribunal de Premiere Instance*, now called *Tribunale Civile*, in each district, and from that to the Four Courts of Appeal, likewise established by him, in the Neapolitan, Calabrian, Apulian, and Abruzzo territories. In each District there is also a criminal court, and at Naples is the Supréme Court, under him called the Court of Cassation, with jurisdiction over all the others in the resort. It consists of a president and two vice-presidents, each at the head of a chamber of eight councillors, or judges. There is a General Chamber of Accounts for all revenue questions. The King's Council, what we should call the Cabinet, consists of three ministers; but there is a general council or Chancery, under a Secretary of State: it consists of twelve councillors, including the King's first chaplain, the presidents of the Supreme Court and Chamber of Accounts, and the Intendant of Naples: it is divided into three chambers, one for justice and ecclesiastical affairs, another for finance and police, a third for the military and naval department. It plainly resembles the old councils and guintas, and, like them, prepares the business for the King and his ministers, without exercising any controul whatever over the power of the Crown. The whole authority of the state is vested absolutely in the King, who makes laws and imposes taxes by his own edicts, and governs without any direct check or limitation. The judges are appointed by him, as are all other officers, civil and military, and all are alike removable at his pleasure. Although, however, the independence of Judges has not been retained from the period of the French dynasty, the publicity of judicial proceedings is retained. The preparation in criminal cases to put the accused on his defence (*instruction*) takes place in private before one of the Judges, who examines the evidence and reports to the Court, before which, he forming a part of it, the trial itself takes place with open doors. But the new code of 1819 has introduced a provision unknown to the Code Napoleon, allowing a

secret trial upon the order of the Secretary of State, or of the President of the Court (*Codice di Procedura Penale*, lib. ii. tit. 2. cap. 3.) The enactments of the Criminal Code are in general not severe, as far as capital punishment is concerned; but offences against the Church or the Sovereign are cruelly visited. Thus irreverent expressions respecting Saints, used in public places, subject the offender to imprisonment and hard labour for not less than seven, or more than twelve years; and unprotected individuals have been sentenced to such punishments through the zeal of priestly or the spite of political oppressors, for profane swearing in the streets or quays. Discourse or writings with the purpose of bringing the Government into contempt are punishable with imprisonment and hard labour from nineteen to twenty-four years. Defacing the statues of any of the royal family incurs banishment to a fortress, as do offences against the censorship of the press. (*Cod. Penale*, lib. ii., tit. i.) That censorship is intrusted to two commissioners, one for printing, the other for importation of books. The Civil Code appears to be closely copied, in most of its provisions, from that of Parma, which though finally promulgated in 1820, had been sketched, and in that form published as early as 1816. The only principle of Feudal Law which it retains, may be traced in its modification of the emphyteutic contract, known also to the Civil Law. It is allowed in perpetuity, with such provisions as the parties may agree upon; and where none have been made, the owner of the *dominum directum* is to have notice by a judicial summons of any sale by the tenant, with a right of pre-emption of the *dominum utile* within two months; and the tenant has the same right of notice and pre-emption with respect to the *dominum directum*. (*Cod. Civile*, lib. iii. tit. ix.)* These feeble remains of the feudal system are rather curious than important; all its reals evils are at an end, the last traces of it having been effaced by the present King on his visit to Sicily in 1838. This is perhaps the greatest benefit conferred upon the community by the French occupation: the next is the abolition of the farms or rather alienations of the taxes to creditors of the State, whereby forty different imposts, yielding a million and a

* The Parma Code allows no such holding for more than 100 years, but the right of pre-emption is not mutual, and a *laudemia*, or fine of a year's rent, is payable by the tenant every 25 years. (Code Civ., lib. ii. cap. 1.)

half sterling, or three-fifths of the whole revenue, were formerly in the hands of individuals, to collect and apply at their pleasure. The financial administration both under Joseph and Joachim was distinguished by great ability.* The restored Government has profited by these reforms; the revenue has been raised to three millions and a half sterling; but the priestly influence has been restored, and fifty-two Monasteries, ten of them at Naples, have been endowed. The interference of the Court with the course of judicial processes forms a still more serious ground of complaint.

The Neapolitan Court having removed to Sicily during the French occupation in 1799, and afterwards from 1806 to 1815, Ferdinand in 1810, supported by British power, thought he might despise the old constitution, and he alienated the Crown Lands and imposed taxes by his edict alone without calling on the Parliament for its assent, thus utterly subverting the last remains of the ancient form of Government. The discontent which this excited only led to the punishment of some members of the Parliament; and that body was no longer called together by the King. But in 1812 he appointed his son Vicar or Lieutenant, to exercise all his powers, and, under the influence of the British Government, the Constitution was new modelled so as to resemble nearly that of this country. The articles were framed and presented by the Parliament called for the declared purpose of making a free constitution, and it was the last time that the old Sicilian Legislature ever met. The three branches vied with each other in the disinterested patriotism of their views: the articles were carried by acclamation, and all assented to by the Crown, except one, giving the exclusive management of the revenue to the nation, which was disallowed, and another, relating to the abolition of fiscal exemptions, which was referred for future consideration when the details should be framed. The articles adopted vested the legislative power in the Parliament and Crown, giving the Crown the power of simply accepting or refusing any bill tendered, as in England. All taxes of whatever kind were included in the same provision. The Parliament was to consist of two houses, one of Peers, one of representatives of the people: the Ecclesiastical as well as

* Its evil was the multitude of agents employed; and in suppressing the monasteries, the poor ones were allowed to remain.

Military (or Noble) members of the old Parliament constituting the former; the latter to be chosen in a manner which Parliament afterwards should point out; and no member of either house was to have more than one vote. The qualification of members was subsequently fixed at 150*l.* a-year for a district, 75*l.* for towns, except Palermo, and for that city 250*l.*; and the right of voting was fixed at 9*l.* of income. Trial by Jury was established in criminal cases, and promised in civil also. Torture was absolutely prohibited. The executive power was to be vested in the King, with the right of making Peers, of calling, proroguing, and dissolving Parliament (but obliged to call it once in every year), of commanding the army, and appointing Ministers and Judges; he being irresponsible, but his Ministers answerable for his acts, impeachable by the Commons and triable by the Peers; the Judges only to be removable on sentence of the Peers, after a resolution of the Commons. The feudal system was abolished, all land being made allodial, all services and incidents ceasing, and all Baronial jurisdiction was swept away, the titles only to estates and the course of their descent remaining the same.—It cannot be denied that a boon of prodigious value was thus given to the Sicilians by substituting this admirable form of Government for the very imperfect one which it replaced. But never was failure of a political experiment more complete. The Sicilians were unprepared for the rights bestowed and incapable of exercising them. The new Parliament met. The debates became immediately a scene of as great violence and confusion as the most disorderly hustings at an English election.* The House of Peers, too, had taken part against the new order of things, alarmed at a rash and ill devised attack upon entails. The House of Commons had involved itself in an indiscreet question of privilege. The elections had been neglected, and the ministry had no effective majority. A dissolution and new election re-

* The following sketch is given by a traveller (Hughes, *Travels in Sicily and Greece*): "As soon as the President had proposed the subject for debate and restored some degree of order from the confusion of tongues that followed, a system of crimination and recrimination was invariably commenced by several speakers, accompanied with such furious gesticulations and hideous contortions, such bitter taunts and personal invectives, that blows generally ensued. This was the signal for universal uproar; the President's voice was unheeded and unheard; the whole house arose; partisans of different antagonists mingled in the fray, when the ground was literally seen covered with combatants, kicking, biting, scratching, and exhibiting all the evolutions and manœuvres of the old Pancratic contests."

turned a House decidedly friendly to the new Constitution; but the Peers became more hostile to it than ever. The reverse of fortune attending the French arms, and the less liberal views taken in consequence by the English government, encouraged the partisans of the King; the liberal Parliament was dissolved; one of opposite principles was chosen; the new Constitution was abandoned; nor did any part of it remain after the termination of the war, except (and it is a very great exception) the abrogation of the feudal system. Yet even this grievance, confirmed though its abolition was in 1816 by the King, is now asserted to have only ceased in name; and it is certain that, when the Government of 1812 was formally overthrown at the restoration, the old Parliamentary constitution was not recovered.*

Upon the restoration of the royal family in 1815, and their return to Naples, a declaration, delayed however till the end of 1816, was promulgated, promising to govern the Insular dominions by Sicilians only, the Continental by Neapolitans; but for the offices common to both to choose Sicilians and Neapolitans, in the proportion of one-fourth of the former and three-fourths of the latter, such being, it was stated, the relative amount of the population; naval, military, and household offices were to be conferred without distinction of country. General promises of improvement were also made in this document; but its most important and most specific part was its confirming the abolition of all feudal rights in every part of the monarchy. It is, however, positively affirmed by General Colletta that those decrees never were enforced till, at the revolution of 1820, the effectual provisions made under Napoleon's dynasty were revived, and that, with the constitution then framed, those laws expired.—The proportion of Sicily in the supplies is to be yearly fixed by the Crown, but never to exceed a given sum, somewhat under a million sterling,† without the positive consent of Parliament. How far that body

* The influence of England, under which this experiment was tried, and which might have made it succeed in spite of the difficulties it had to contend with, but for the events of the war, was sustained by an army of 15,000 men, and an expenditure of nearly half a million a-year. Its main prop, however, and the person to whom Sicily owes most, was Lord W. Bentinck, one of the most able, most enlightened, and most virtuous men that ever were employed in high public trusts. He combined the office of Ambassador with the command of the forces; but he was not throughout supported by his Government, especially when the fear of France had ceased to make the alliance of the Sicilians essential to their schemes.

† 946,937*l.*

is likely ever to meet may be seen from this, that persons have been sent to prison for petitioning that it might be called together.

It is unnecessary to recite the provisions of the constitution which was established by the Neapolitans in the revolution of 1820, being the Spanish constitution of 1812, and adopted for both the Sicilies, the incorporating union of the two kingdoms being resolved on, and the Sicilians welcoming the change as warmly as the Neapolitans, but making an unsuccessful attempt to obtain a separate Parliament. The Holy Allies brought it to a premature end in a few months; but with all its faults * it must be allowed to have been far from a failure like the experiment in Sicily to which we have adverted. The debates in the new Parliament chosen by universal suffrage in the primary assemblies, who elected intermediate delegates or electors, are represented by all who witnessed them as having been conducted with great ability and exemplary decorum; and when it is added that among those who bore this testimony in their favour was Lord Colchester, for so many years Speaker of our House of Commons, it is evident that a more accomplished, a more impartial, nay, a more severe critic, could not have pronounced an opinion upon such a matter.

When the King repaired to join the Holy Allies in Germany, and the new constitution was about to be overthrown, he issued a proclamation promising to consult with his subjects on his return, touching measures that might conduce to the repose and prosperity of the realm. In performance of this promise he assembled a council of his creatures, and proposed some regulations for the conduct of the Government, which they implicitly affirmed. It is unnecessary to state that nothing whatever was propounded which could place the least restriction upon the Royal authority. The affairs of the State were to be discussed in a Council of Twelve, and new laws in one of Thirty at Naples and Eighteen at Palermo, care being taken to maintain that separation of the two Governments which had ever been found so fatal to liberty, and so beneficial to arbitrary power. The taxes

* The Spanish plan of a deputation to sit during prorogations was adopted, and this body had the power of calling an extraordinary meeting on the King's requisition, or in case of his abdication or incapacity. The King had a qualified veto only; bills twice refused by him in two sessions became law if presented a third year.

were to be distributed by provincial councils with leave to propose improvements. But all these bodies were to be composed of persons nominated by the Crown and removable at pleasure; and no pretence was ever used of any revival of the old Parliamentary Constitution, or even the Seggi. Since that period, accordingly, the power of the Crown has been completely absolute in every particular; and the Sovereign is even supposed to have been inclined on more occasions than one to liberal measures, which his Austrian allies have prevented or suppressed.*

* The difficulty of obtaining full and accurate information respecting the constitution of Sicily and Naples can only be well understood by those who have made the attempt of studying, for example, the structure and functions of the Parliament of the former kingdom, so much more likely to be well described than that of the latter. The following authorities will be found to support the statements in the text: *Can. Gregorio Considerazioni sopra la Storia di Sicilia*, lib. ii. cap. 8; lib. iii. cap. 5; lib. iv. cap. 3, 5, 6.—*Can. Gregorio Introd. allo Studio del Dritto publico Siciliano.*—*Mongitore Parl. Gen. del Regno di Sicilia*, cap. 5, 18.—*Grimaldi, Storia*, tom. I. lib. xi. No. 42.—*Del Re Descrizione Topografica.*—*Liberatore Istituzione della Legislazione.*—*Burigny, Hist. Sic.*—*Saggio Politico sulla Popolazione*, &c., *delle Due Sicilie.*—*Colletta, Storia*, tom. iii. 10.—*Count Orloff's Mem. Hist. Pol. et Lit. sur le Royaume de Naples;* is a useful book, and written in a very liberal spirit—see particularly his condemnation of feudal and ecclesiastical tyranny, Vol. iii. p. 16. Lacroix is even more meagre than usual on this subject (tom. iii.). Two of his three discourses are on the origin of the constitution, and only contain an indifferent abstract of the Neapolitan history, with nothing about the constitution; and the third contains nothing of any value but an extract from Filangieri. A work by a member of the Sicilian Parliament, *On Sicily, and its Relations with England*, published at Paris in 1827, deserves to be consulted, as do Mr. Leckie's Tracts on *Foreign Policy*, 1808.

TABLE.—SICILY AND NAPLES.

*** The *double line* means a separation of the two kingdoms; the *bracket*, their union; d. died; k. killed.

NAPLES.

Lombard Duchy of Benevento.

585 Autharis—Zotto.

Norman Line.

1056 Robert Guiscard, d. 1085.
1085 Roger I., d. 1111.
1111 Duke William, d. 1127.

1127 Roger II., crowned 1130, d. 1154.
1154 William I. (Bad) d. 1166.
1166 William II. (Good) d. 1189.

Swabian Line.

1189 Henry (Emperor H. VI.; husband of Constance daughter of Roger II.), d. 1198.
1198 Frederick I. (Em. F. II.), d. 1250.
1250 Conrad I., d. 1254.
1254 Conrad II. (Corradino), k. 1258.
1258 Manfred (bastard of F. I.), k. 1266.

Anjou Line.

1266 Charles I. (brother of St. Louis), d. 1285.
1282 Sicilian Vespers.

1285 Charles II., d. 1309.
1309 Robert (Good), d. 1343.
1343 Joanna I., d. 1382. Married Andrew, k. 1345.
1382 Charles III., d. 1386.
1386 Ladislaus, d. 1414.
1414 Joanna II., d. 1435.

1443 Alphonso I. (Wise), d. 1458.

1458 Ferdinand I., d. 1494.
1494 Alphonso II., d. 1495.
1495 Ferdinand II., d. 1496.
1496 Frederick II., dethroned 1501, d. 1504.

1501 Ferdinand III. (Catholic), d. 1516.
1516 Charles IV. (Emperor C. V.), abdicated 1556, d. 1558.
1556 Philip I. (II. of Spain), d. 1598.
1598 Philip II., d. 1621.
1621 Philip III., d. 1665.
1665 Charles V. (II. of Spain), d. 1700.

Bourbon Line.

1707 Charles VI. (Emperor 1711), abdicated 1738, d. 1740.

1720 Charles VI., abdicated 1738, d. 1740.
1738 Charles VII. (III. of Spain), abdicated 1759, d. 1788.
1759 Ferdinand IV., d. 1825.

1799 Republic.

1801 Ferdinand IV., d. 1825.

1806 Joseph Napoleon (King of Spain), abdicated 1808.
1808 Joachim Napoleon, k. 1815.

1815 Ferdinand IV., d. 1825.
1825 Francis, d. 1830.
1830 Ferdinand V.

SICILY.

827 Saracens.
940 Fatimite Califs.
1020 Zereides.

Norman Line.

1060 Count Roger, Robert's brother. d. 1101.
1101 Roger I., crowned 1130, d. 1154.

Swabian Line.

Arragon Line.

1282 Peter (of Arragon), d. 1285.
1285 James, abdicated 1295.
1296 Frederick II., d. 1336.
1336 Peter II., d. 1342.
1342 Louis, born 1337, d. 1355.
1355 Frederick III., d. 1377.
1377 Mary, married Martin (of Arragon).
1391 Martin, d. 1409.
1410 Ferdinand I., d. 1416.
1416 Alphonso I. (Wise), d. 1458.
1458 John I. (of Arragon), d. 1479.
1479 Ferdinand II. (Catholic), d. 1516.

Savoy.

1713 Victor Amadee, abdicated 1720 (King of Sardinia).

Bourbon Line.

1799 Ferdinand III. (IV. of Naples, and I. of Two Sicilies), d. 1825.
1806 Ferdinand III. (IV. of Naples), d. 1825.

CHAPTER XVIII.

ITALIAN MONARCHIES—(*continued.*)

PETTY PRINCIPALITIES.

TUSCANY—Government of Florence—Factions—Medici Family; their rise; their usurpation—Lorenzo's character; crimes—Conduct of Historians—Alessandro; change of Government—Recent Tuscan History—Political inconsistency—Absolute Governments—Leopold I.; his merits; his reforms; his code.

LUCCA—Castruccio Castracani—Burlamacchi—Martini's Law—Recent Luchese History—Government.

PARMA and MODENA History—Government of Parma—Tyranny of Maria Louisa—Tyranny of Modena—Effects of Absolute Power—Evils of Petty Monarchy.

WE have been led to treat of the southern monarchies of Italy before concluding those of the centre, because of their connexion with the Papal states, with which we had begun for the reasons given in Chapter xvi. We now return to the central division, the early political history of which will not occupy us long; as we have, in describing the Lombard polity and laws, examined the origin of the central and northern, as well as of the southern monarchies.

We traced in the last chapter the early formation of the Lombard monarchy, and saw that it consisted of a number of Dukedoms, fiefs of the Crown. Of these Tuscany was one, having been for above half a century occupied by the Goths, when they overran the Italian dominions of the empire, and it was formed by them into a province under a prefect. The Lombard dukes governed it as they did their other provinces; and there were officers called *Castaldioni* (or *Gastaldioni*), similar to the Neapolitan gastaldi, and whose functions chiefly regarded the revenue. While the dukes maintained an independent authority, and were often only nominally under the Lombard king, the collecting tribute and paying it over to them must have been this officer's only employment. But it seems more likely that the department was created at a later period, after Autharis, at the end of the sixth century, had established the regal authority over the

dukes, with the exception of Benevento, Friuli, and Spoleto, when he enforced the payment to himself of one-half the ducal revenues.

The conquests of Charlemagne extended over Tuscany, which was transferred from the Lombard kingdom and held as a fief of the kingdom of Italy, left by him to his successors. It was after his conquest placed under the government of counts and of marquesses, who held it as a fief of the empire. The last marquess was Guelph VII., who sold it to the Emperor Frederick I. Meanwhile the towns became important, and, like the Lombard and the imperial towns of Germany, established democratic constitutions. They continued, however, more or less dependent upon the empire; to which they paid tribute according to the power of controlling them which the emperor at different times happened to possess; and their progress in commerce increasing their wealth and influence, they obtained the dominion of the neighbouring lordships. But their independence was not firmly established so early as that of the Lombard towns, whose league against Frederic led to the Peace of Constance in 1183. The league of the Tuscan towns against the emperor was not formed till 1197; it was under the influence and command of Florence, the head of the Guelph party (Chap. xvi.), Pisa and some other towns being generally on the Ghibelline side. The struggle of the two factions lasted for three centuries, and Florence gradually subdued all the other towns except Lucca.

At first the government of Florence, as of the other towns, was aristocratic, the influence of the feudal lords being predominant; and the conflict of the city factions enabled them to retain much of their power even after the wealth which commerce introduced had given importance to the mercantile classes. But by degrees these obtained the ascendant; the violent contentions of the parties into which the nobles were divided weakened them in their turn, and the scheme of government became democratic, or rather a civic aristocracy was substituted for that of the lords. But the citizens of even inferior rank had some share in the administration. To the consuls succeeded, about the middle of the thirteenth century, a body called *Anziani*, or *Buonomini*, a kind of senate, or council. The bodies of trades or artisans, called *Arts* (*Arti*) or *Companies*, had originally been twelve in number, and were probably at first all equal; but at the beginning of the thirteenth century the divi-

sion into greater and less was established; the former being 7, lawyers, medical men, bankers, silk, woollen, and fur dealers, and foreign cloth merchants. The other 5, afterwards increased to 14, were the artisans and lesser retail dealers. In 1266 this twofold division was completely established, and the seven greater arts were, by the provisions now introduced, to choose each yearly a council, a magistrate to administer civil justice among the members, and a chief called standard-bearer or banneret (*gonfaloniere*), to command their forces in all operations for keeping, not unfrequently for disturbing, the peace. In 1282 a more important change was introduced; six of the seven chief companies, the lawyers being excepted, were to choose each a *priore*, and in these six *priori*, and their president, called *Gonfaloniere di giustizia*, was vested the executive government. But from the jealousy common to all Italian republics, neither the priori nor the chief gonfaloniere were allowed to remain above two months in office; and from the same jealousy, as we have already seen respecting the Lombard towns (Chap. xvi.), criminal justice was administered by a foreigner, holding the office of *podestà*, though another called *Capitano del popolo* had a concurrent jurisdiction. The gonfaloniere was the chief executive magistrate; but there were two legislative councils, one of 300, wholly plebeian, the other of 250, open to nobles also, provided they became citizens by belonging to the companies; and these councils had a voice upon all measures propounded by the priori and their president. All the citizens were admitted in their turn to all offices and to the councils, or rather were admissible, for the choice was by lot and a complicated ballot, and the rotation was quick, four months being the longest period of holding office, only that the nobles were in process of time when the citizens gained the upper hand, excluded absolutely from all the higher offices here, as we may remember (Chap. xvi.) they were in the Lombard towns and those of the Roman states, being only suffered to hold any places in the public service by becoming members of the trading companies. At the end of the fourteenth century a practice was introduced of suspending the ordinary choice by lot and rotation. The general assembly of the people chose a body of dictators called *Balìa*,* consisting of the chief persons in the predominant faction, with power to fill up all offices, levy extraordinary supplies of money, and banish persons unfavourable to the ruling

* This word signifies power or authority; quasi *valìa* from *valeo*.

party.* This was only occasional and temporary, and in its operation † resembled the Ostracism of the Greeks as well as the Dictatorship of the Romans. At the beginning of the fifteenth century, the aristocratic influence having greatly the preponderance, a council of 200 heads of the chief families was created, with a previous negative upon all propositions to be laid before the legislative councils. It was composed of those only who had during late years held the higher offices. The parties which divided Florence, beside the two great factions of Guelph and Ghibelline which represented two principles, the support of Italian independence and of the Imperial pretensions, in some sort, too, the profession of popular and of servile, at least aristocratic, principles, were also banded against each other from private and family interests under the names of *Bianchi* and *Neri*, *Uberti* and *Buondelmonti*, *Cerchi* and *Donati*, from their leaders, or some accidental circumstances, distracted the state, and enabled a powerful family to usurp supreme power, extinguishing liberty with popular institutions.

The Medici were the most wealthy, enterprising, and accomplished of the great commercial houses in the republic. Their founder, Sylvester, first became powerful about the year 1576, having succeeded to men of great wealth but inferior influence in holding the office of gonfaloniere for a number of years. His son Giovanni still further increased their sway over the people, and his grandson, Cosmo, during a considerable part of the fifteenth century, attained a degree of importance which could hardly be deemed compatible with the independence of the commonwealth. Jealousies arose against him and he was banished; but after a year, the recollection of his great services to the state, the munificent expenditure of his princely income, the benefits he had

* The General Assembly, *Farsi Publico*, *Colloquium*, or *Parliament*, at first exercised its functions freely: it was called by the councils; it was an appeal by the Government to the people in difficult emergencies, sometimes to consider measures, generally to choose dictators; and it certainly was at the best an admission of the inherent imperfections of the constitution. But soon the predominant party, with the aid of a military force, compelled the citizens to choose themselves and their creatures. The numbers of the balla varied according to circumstances; sometimes they were several hundreds: as in 1458, when Cosmo, by an armed force, made the meeting choose 352; sometimes not more than 8, as when Pierro in 1466 was desirous of wreaking his vengeance on the Soderini party, which the balla and his creatures did with signal cruelty.

† The coalition of Cosmo and Capponi against the Albizzi party kept the republic quiet for 21 years, during the whole of which, however, the balla was kept up, having been six times renewed.

conferred lavishly on individuals as well as on the community at large, made the people repent of having lent themselves to the party of his adversaries, the Albizzi, and he was recalled, of course to greater power than before. It was by such means, by their patronage of learned men, their encouragement of the arts, their fostering protection to the agriculture and commerce of the country, their riches generously distributed, that the Medici retained their influence; but they used it to gratify their ambition at the expense of liberty, and the most eminent of them, Lorenzo, overthrew the popular government of 200 years with a mixture of fraud and violence to which his own accomplishments and his encouragement of learned men has as usual made most authors blind.

He began with appointing himself five *accoppiatori*, who had the choice of the gonfalonieri of the arts, and of the priori and gonfaloniere of justice without any intervention of popular election. Not content with this, the *signoria*, or aggregate body of magistrates and counsellors, were no longer consulted on any matter, but Lorenzo communicated his pleasure to the gonfaloniere alone, on the pretence of the signoria, and even the six priori, being too numerous. The balia, which had hitherto only been temporary and resorted to on great emergencies, was now (1480) made a permanent body, under the name of the senate, consisting of 70 of his creatures, with the highest legislative, judicial, and administrative authority; and the two councils of 350 and 200 were virtually, if not formally, abolished. This balia had, indeed, powers superior to those of any sovereign; for it could condemn without any process or form of proceeding, enact retrospective laws, and levy new and arbitrary taxes in place of any existing ones regularly imposed. It had the power, too, of expending on any extraordinary service the public money at its discretion; and on one occasion it sent 100,000 florins, equal in value to as many pounds of our money at the present day, to save a mercantile house at Bruges from bankruptcy, the Medici family having a large stake in the concern.* Other losses, by which their great wealth had been dissipated since they became political chiefs, were supplied at the public expense; the denomination of the currency was lowered in receipts, continuing the same in issues by the government; and the interest of the debt diminished fifty per cent. in consequence of their necessities. Beside a rapacity which makes the

* The name of the trader ostensibly concerned was Portinari.

praise of generosity somewhat equivocal if not preposterous, a disregard of human life and suffering upon more than one occasion, appears to have been brought home to the munificent patron of arts and restorer of learning, by the statements of late inquirers;* while even those who maintain that no charge of treachery or assassination can be substantiated against him,† admit his usurpation, his despotism, and his extravagance at the expense of the country. When we see the most amiable men, fast friends of liberty, champions of popular rights,‡ dazzled by comparatively trivial accomplishments and services, exalt such a character as a benefactor of mankind without duly reprobating its darker shades, we are unavoidably led to blame the writer as well as his hero. Historians do not reflect when they palliate the misdeeds of men whose merits in some particulars they may record, that their very virtues suffer by the association with crimes; and he who permits literary excellence, or the encouragement of artists, to abate his dislike of perfidy and cruelty,

* M. Sismondi.

† Mr. Hallam. If it be said that the intrigues in which Lorenzo was confessedly engaged, such as his stirring up sedition in Sienna, and other republican states, to weaken and exhaust them, were no more acts of treachery, and the sanguinary executions and violent banishments which he is admitted to have caused, were no more acts of cruelty, than the practice of the age and country rendered familiar, unfortunately the same kind of argument would justify assassination itself, and frauds of the most vulgar description. That during the first four years of his government, when he had not passed his twenty-second year, 16 persons of the adverse party were executed for one conspiracy and 21 for another, and a price set on the heads of four chiefs of noble families, his rivals, appears not to be denied; and throwing the blame of the latter act upon his balia affords no excuse.—That at the more mature age of thirty, when he escaped from the detestable Pazzi conspiracy, he refused to interpose his authority in order to have the delinquents regularly tried, but left them to the fury of his mob, who butchered above 70 persons immediately, and in all destroyed 200, with a cruelty and indecency unfit for description, is equally certain.—The reduction of interest from 3 to 1½ per cent., and consequent fall of public securities from 27 to 11½ per cent., with the other financial operations by which his commission of 17 in 1490 covered his own losses in trade, form another passage in his administration not to be disputed. It happened, too, the year after he assumed the novel title of Prince (1490).—But the authority of Machiavel and Nardi charges him also with having a retrospective law made, by which one of the Pazzi (connected too with his own family by marriage) was deprived of the inheritance of the Boromei, the new law at once declaring the nephew heir in preference to a daughter, whom Pazzi had married, and whose father had died intestate in the confidence that his only child must succeed to his property. There even seems to be much more than suspicion of his guilty knowledge, even of his encouragement, of the plot at Forlì in which Riario was murdered, ten years after the Pazzi conspiracy in which he had taken a forward part. But writers of good credit and liberal principles have denied this. *Pignotti*, tom. iv. p. 15.

‡ Mr. Roscoe.

forgets that letters and the arts do contract a stain by being found to ally themselves with the baser propensities of our nature instead of keeping us above such contamination.

The heads of the family now succeeded one another under the name invented in 1489 of *Principi del Governo*, as chiefs of the nominal commonwealth, without any check on their authority except such as occasional tumults of popular or aristocratic factions might oppose; and the gonfalonieri and other officers were mere tools in their hands. They retained, however, the forms of the republic. The same magistrates continued to administer its affairs, only the Medici interfered with all elections, packed the bodies that still nominally existed, and filled every office of the least importance either with themselves or their creatures. But in the year 1527, the Emperor Charles V., having defeated and imprisoned the Pope, Clement VII., Giulio de' Medici, bastard nephew of Lorenzo, the Florentines seized the opportunity of throwing off the yoke of the family, and restoring the popular government. The perfidious and tyrannical Charles in the course of two years settled the affairs of Italy, and turned his arms against Florence, which, after a resistance of several months, he completely subdued, raising Alessandro de' Medici to the head of affairs, and enabling him to abolish all that remained of the old constitution, that is, the forms or little more, which had hitherto been kept up.

This change, under the direct authority of the emperor, was effected by Alessandro in 1531, and the manner of completing it, and of finally establishing absolute monarchy deserves our attention. A balia was first of all appointed, consisting of twelve citizens, supposed to be elected by the community, but in reality named by the prince, at a public meeting surrounded with four regiments of Corsican soldiers. These twelve, with the gonfaloniere, a tool of the family as usual, were commissioned to frame the new constitution, and they affected still to retain some appearance of the old; but so much only (says a late writer) as remains of an ancient picture which time has defaced, leaving a few imperfect lines alone discernible.* As the old signoria consisted of forty-eight citizens, eight being chosen by lot every two months, the number of forty-eight was preserved, but they were now to be appointed for life, and among the first forty-eight the balia of twelve and the gonfaloniere named themselves. This body of forty-eight was to be the senate, and the prince or chief

* Pignotti, *Storia della Toscana*, tom. v. p. 189.

of the state, Alessandro; and after him his heir, was, under the title of Doge, to be the head of the body instead of the gonfaloniere, whose office was abolished, as was the old division of the Arts into greater and lesser. The whole citizens, too, without exception, were required to disarm themselves. In the senate, or rather balìa, was nominally vested the power really exercised by the prince, of making laws, imposing taxes, and appointing to all the offices of any importance both in Florence and the country. There was an additional body of citizens, to the number of 200, though this appears to have varied; and in them was vested only the power of filling up trifling places, and making regulations respecting petty matters. They were first named by the prince in 1531, and the balìa was included in their number; they appear afterwards to have filled up the vacancies in their own body. The whole 248, which sometimes were more and sometimes less in number, were always called the Council of Two Hundred, that being the old name of the executive council. The executive power was vested in four of their number, to be chosen every three months by twelve electors (*accoppiatori*) whom the prince appointed; and he alone, or his lieutenant, had the power of proposing any measure, nor could anything be discussed but by his leave: so that it required only two votes with his own to carry any proposition. That this council of four must all be his creatures was provided effectually, not only by their election being vested in the *accoppiatori*, whom he named, but by his choosing the whole 48 out of the 200, with only the restriction, that not more than two could be taken from one family. Nothing could be more absolute than the control thus given to the doge, afterwards the grand duke; and accordingly, the same form of government having been continued down to the later times, no instance was ever known of the duke's proposals having been rejected, or even of the least hesitation* or reluctance being shown to adopt them.

When the alliance of the Medici by marriages with sovereign

* Pignotti gives an erroneous account of the origin of the council, stating that to the 48 there were added 152 in order to make up 200; and that its only business was to scrutinize (*squittinare*) the choice of officers. (*Storia*, tom. v. p. 188.) M. Sismondi (*Rep. It.*, tom. xvi. p. 85) appears to consider them as only consisting at first of the balia and 100 others; but he distinguishes the 48 as forming the senate, apart from the rest of the council. We have followed the statement of Adriani, a contemporary writer and of the highest authority. *Istoria de suoi Tempi* (1583), lib. i. p. 4.—*Segni Istoria Fiorentina* (1722), lib. v.—*Varchi*, lib. xii.—The account in *Delecluze*, tom. i. p. 294, is not at all correct according to the authorities.

houses abroad—their giving popes to the see of Rome—their foreign influence which, in 1525, obtained their restoration from banishment, Charles V. taking their part—their acquisition of Sienna in 1557—their final triumph over their most powerful rivals, the family and party of the Strozzi, whom they defeated at the battle of Morone—left them without a competitor; they were formally acknowledged as the sovereigns of the state by the pope, in 1569, conferring on Cosmo I. the title of Grand Duke, which the emperor confirmed, to Francis, in 1576. They continued to hold the sovereignty for seven generations, till the extinction of the family in 1737, when Tuscany passed to the House of Lorraine in exchange for their dominions in Alsace, given as an establishment for Stanislaus, Louis XV.'s father-in-law. Francis, the grand duke, becoming emperor of Germany in 1745, held Tuscany with his other dominions till his death, when it went to his second son Leopold; and on his becoming emperor in 1790, it devolved upon his younger son Ferdinand, father of the reigning prince. In 1797 it was taken from the Austrian or Lorraine family, and formed into the kingdom of Etruria as an indemnity to the Duke of Parma, whose dominions had been annexed to the Cisalpine republic, afterwards the kingdom of Italy. In 1807 it was united to France as the department of the Arno, and two others; and in 1809 these departments were governed as a Grand Duchy by Napoleon's sister Princess Bacciochi. At the Peace of 1814 it was restored to the grand duke, who had received, during the transfer of the duchy, a compensation in the electorate of Saltzburgh, and afterwards, 1801, in the grand duchy of Wurtzburgh.—At no period of the world, it may be observed, were the rights of the people, and their sentiments with respect to the rulers whom they should live under, or the states to which their country should be annexed, more entirely disregarded than during the wars and the negociations arising out of the French Revolution. The times especially chosen for setting all the principles of freedom at naught, making the strongest feelings of patriotism the subject of continual outrage, and removing the landmarks of ancient dominion, were first, the proclamation of liberty (without peace) to mankind by the French Republicans, and afterwards, the restoration of ancient dynasties by the patrons of order, the champions of national independence, the antagonists of a policy that delighted in conquest and revelled in change.

The power of the grand duke in Tuscany has been wholly uncontrolled by any checks of a constitutional kind since the middle of the fifteenth century. The existence of a wealthy aristocracy of proprietors in the country, of merchants both in Leghorn and Florence, of literary men and artists in the capital, in Pisa, and in Sienna, for the most part prevented the absolute government of the prince from assuming a harsh or even a very arbitrary aspect. But no body was left in the state, no council dependent on the people, no independent magistrates, that could afford any security against acts of cruelty or caprice, if a prince chose to indulge in them. There were councils enough of various kinds, but all servants and coadjutors of the sovereign, and all depending on his pleasure. A Council of State, with four departments, each under a director, for the general affairs of the administration; a Consulta, to advise the grand duke on matters of grace and justice; a supreme magistracy, with jurisdiction over persons belonging to the court; a Chamber of Commerce, and about thirty other bodies of an administrative character—these all carried on, but under the grand duke's absolute control, the business of the country. The military force has been inconsiderable, not above 6000 men for a population of above 1,000,000; and the revenue, though exceeding the expenditure by near £100,000 sterling, never was much above £500,000. But there were always at the command of the prince the resources of other more powerful states; and for a century past he has been a branch of the Austrian family, having access at the shortest notice to the whole force of its Milanese dominions. Since Lorenzo, then, almost, and his immediate successors altogether, abolished the popular and aristocratic bodies, and left the whole choice of officers in the hands of the prince, as absolute a power has resided in the sovereign as can be found in any of the European monarchies.

That this power has not in general been abused is equally certain; and it must be recorded to the honour of the princes who succeeded to the Medici, that they have not only been free from the vices with which that celebrated family stained its reputation, but have also conferred upon their subjects benefits more substantial than any encouragement of the ornamental arts is calculated to secure. At the head of the true benefactors of their country, and in a very exalted place among the sovereigns who have deserved well of mankind, stands Leopold I., who,

for a quarter of a century before he succeeded to the imperial crown, had governed Tuscany upon the principles of a policy at once virtuous and wise; a policy which would almost justify the predilections entertained by some philosophers for unlimited power vested in a single ruler,* and which would altogether justify the predilection, could we reasonably expect many princes to remain, like Leopold, uncorrupted by the enjoyment of supreme authority.

It was the wise saying of a Florentine statesman to Francis the first Duke of the House of Lorraine, on his accession in 1737, that a few words comprised all his duties. "Remember," said he, "you are grand duke of Tuscany, and not of Florence." Leopold never forgot this maxim; he abolished all the exemptions and other privileges which the capital had so long enjoyed; placed Leghorn, Pisa, Sienna, on an equal footing with it; and promoted their inhabitants to all the offices which had for ages been monopolized by the Florentines. He put an end also to the vexatious monopolies of tobacco, brandies, and others which oppressed the commerce of the country; favoured in various ways the freedom of trade; and gave up a variety of petty imposts which harassed the people more than they enriched the prince. Nor was it only commercial freedom that he favoured, he entirely abolished the Inquisition; and, after a long and severe struggle with the see of Rome, he succeeded in placing the monastic orders under the jurisdiction of the native bishops. But he likewise suppressed many monasteries, distributing their revenues among the parochial clergy. Of the clergy themselves he reformed the discipline; he prohibited non-residence and pluralities; prevented the publication of papal bulls and canons without his authority; forbade the ecclesiastical courts from interfering with laymen, or encroaching upon the secular jurisdiction, and subjected the priests to trial for crimes by the secular courts. His reforms of the municipal law were conceived in as wise a spirit, and executed with as firm, and at the same time as skilful a hand; for unlike his brother Joseph (Chap. xv.), he maturely deliberated on his measures before he finally adopted them; and having taken his resolution, he steadily though temperately pursued it. He consulted the universities of Bologna and Pisa upon the right of the barons to feudal jurisdiction; obtaining an answer

* The French economists held a *legal despotism*, as they termed it, to be the best form of government.

which denied it, he easily got the concurrence of his council, composed of heads of families; and securing the co-operation of some of his favourites, who were themselves possessed of these privileges, but were disposed to resign them, he abolished the whole generally through his dominions. On the other hand, he encouraged the local administration of towns and parishes, by allowing them to manage their own ordinary affairs; he promoted agriculture by the inclosure of commons as well as draining marshes, colonizing wastes, and constructing roads and canals; and he removed the chief obstruction to the commerce of land by restrictions upon the power of entailing it. Education he did not neglect, reforming the universities of Sienna and Pisa, and planting schools for the instruction of the poor. In 1786 he promulgated his code, consisting of 119 articles, and conceived, for the most part, in a spirit at once enlightened and humane. By this great act of legislation, torture is absolutely abolished, with all mutilations or other cruel punishments; confiscation is also put an end to; the numberless treasons of the old law are reduced to a few heads, and punished like other offences; and all capital punishment is excluded, its place being supplied by banishment of different kinds, imprisonment, flogging, private and public, hard labour, and public exposure, or pillory, of which the public flogging and the pillory are justly to be condemned. Notwithstanding the want of popular institutions, it must be allowed that the character of the Tuscans having become softened and humanized by the long enjoyment of peace, and the extinction of the factious spirit which, in the times of the aristocratic parties, filled the community with every species of violence and fraud, they have enjoyed as much happiness as almost any nation in Europe, and far more than any other Italian people. But this prosperity they owe mainly to the administration of Leopold, and his successors, who have followed in his steps. His name is dear to his country, but it has been little known to the rest of mankind, whose thoughtless admiration is habitually lavished upon the conquerors that harass and enslave them. When he became emperor on his brother Joseph's death, he showed in Germany the same wisdom and integrity which had marked his Tuscan administration; he did as much as could be accomplished, in the short period of his reign, to repair the errors of his predecessor. The part which he is supposed to have taken against the French Revolution,

but which in reality was confined to negociation for defensive measures, raised, in the minds of the more violent partizans of the Revolution, a prejudice unfavourable to his conduct; and the distinction was not fairly drawn between him and his successor in the empire, whose narrow views, obstinate disposition, and harsh unrelenting temper, though severely punished by grievous reverses of fortune, were not too severely visited by the general reprobation of his age.

The early history of Lucca resembles that of the other Lombard duchies. Originally like Tuscany, and the other conquests of the Lombards from the Goths, a fief of the kingdom, it afterwards was a fief of the empire; and about the middle of the twelfth century became an independent republic of an aristocratic kind, the upper classes having a prevailing influence, though by no means to the exclusion of the others, who retained some share in the choice of magistrates for above two centuries. In the contest between the emperors and the independent party of Italy, Lucca was generally with Pisa on the Ghibelline side, although occasionally the Guelph party prevailed, seized the government, and banished all their adversaries. It thus most frequently joined in hostilities against Florence; and at one time, early in the fifteenth century, Castruccio Interminelli (who, on adoption into one of the leading families, took the name of Castracani), after serving under our Edward I. returned to his own country, and soon rose by his great personal merits to the head of the republic, which under his guidance gained a formidable ascendancy in the contest. His success was interrupted by the usurpation of Ugucione, who was able by a faction to overthrow the government of both Pisa and Lucca, and assume absolute power, after casting Castruccio into prison. The people however rose, liberated him, driving his enemy away; and he now got rid of all his adversaries without much scruple as to the means. This happened in 1316; from which time, till his death in 1328, he retained his great influence; and displaying extraordinary capacity for military as well as civil affairs, gained such advantages over the Florentines, that he formed a plan for uniting all Tuscany in one government, but under the emperor, and then of extending the imperial dominions over Italy, the great object of the Ghibelline policy. Castruccio is admitted by all to have had views of a more enlarged kind than the wretched strife of city against city, or even party against party

within the same territory, which formed the general staple of Italian statesmanship in those times; and his courage and conduct in war, as well as his personal address, have never been called in question. At the same time, his pursuit was a sovereignty for himself, only to be supported by the foreign dominion which he sought to extend over the whole country; and if the crimes of all kinds, among others, the crimes against liberty justly imputable to the domestic factions, and the oppressions exercised over other commonwealths by the Guelphic town when it happened to have the chief command, might make men oftentimes turn towards a more remote as an easier master, it must never be forgotten that the final extinction of popular government was worked by the conquests of the imperial arms, and the arbitrary government for the three centuries which have since elapsed maintained by the emperor's power.

Upon Castruccio's death the Guelphs obtained the ascendant, everywhere defeating and banishing their adversaries, Lucca soon fell under the dominion of the Visconti of Milan, who, disregarding the former constitution, and preserving only the name of Gonfaloniere, without allowing the people any voice in the choice of their magistrates, but retaining the nobles of the country district in the subjection in which they had been to the town, exercised despotic authority for half a century, when Charles IV. expelled them, and restored the commonwealth in 1370. Other tyrants were from time to time enabled, by the conflict of parties, to gain the chief power; but they never held it long, and the government at length settled into an aristocracy, or rather an oligarchy, on narrow principles.

In 1546 an attempt was made to restore the popular government by Francesco Burlamacchi, who formed a plan for raising an insurrection in Florence against Cosmo I., as well as in other Tuscan cities, the exiles from which of the Ghibelline party inclined towards the Reformation, and held correspondence with the German Protestants. He became gonfaloniere of Lucca, and with the force which this office enabled him to raise, had resolved upon surprising Pisa, and thus giving the signal to the disaffected in other places. But the plan was discovered; the magistrates arrested him, and put him to the torture, when he confessed the whole. They refused to deliver him upon the demand of Cosmo,* but sent him to Milan at the emperor's requisition, who caused

* His family was, as usual, banished, and taking refuge in Geneva, one of his descendants (Professor Burlamaqui) became celebrated for his work on National Law, in the early part of last century.

him to be executed. The usual effect of an unsuccessful resistance followed. The government became even less free than before. A gonfaloniere in 1556, called Martini, obtained the passing of a law, excluding all but certain privileged families from ever holding office; and the government was vested in the gonfaloniere, with an executive council of 9 anziani, a senate of 36, and a great council of 90. As the number of privileged families had by extinctions been reduced to 80, before the government was changed in 1799, it is evident that almost every person who was eligible must have held office. In that year the French having invaded this petty state, the republican party seized the opportunity of demanding the restoration of a popular constitution; and the senate agreed to the repeal of Martini's law, and the abolition of all titles and privileges; but this did not satisfy the popular party, who insisted upon the establishment of a pure democracy. The French agents took part with the senate; but while the general was assembling a body of 100 deputies to consider the government best fitted for the community, he received orders from Paris to dissolve the senate and establish a constitution on the model of the French in that day, namely, a directory of five and two councils, one of 48 and the other of 24. The salaries were suited to the size of the republic; for the directors were only to have £100 a-year each, and the senators £50. When the French were defeated and Italy was reconquered, this constitution was annulled by the Austrians after being in force about six months; and the French having in the next year again obtained the ascendant in Italy, Napoleon, then become first consul, gave Lucca a constitution in December, 1801, with a gonfaloniere instead of a directory, anziani as an executive council, and a grand council instead of the legislative body. In 1805 he made Lucca a principality, and gave it to his sister Eliza's husband, Bacciochi, Prince of Piombino,* with a monarchical constitution, which continued until his own downfall in 1814; when Lucca was, by the congress of Vienna, given to the hereditary Prince of Parma as a compensation for his states bestowed on the Empress Maria

* The constitutional act sets forth the desire of the gonfaloniere, anziani, and council, that Napoleon would be pleased to give them a new constitution, and a prince of his house to administer it. It then states how gratified they would feel if the Prince Bacciochi were the individual selected. The whole prayer was granted except in one particular: they desire the perpetual exclusion of females. Napoleon only postponed them to males.—It is hard to say whether more frauds were practised on the people of Italy by the republicans or by the Imperial policy.

Louisa; but Lucca is to be united with Tuscany on her death, when Parma reverts to the Duke of Lucca.

The constitution of the duchy now vests absolute power in the duke; that which it had during the time of Napoleon gave the prince substantially a very great control over the government, but he was not altogether absolute. There was a senate of 30, whose assent was required to all laws and all financial measures proposed by the prince; it could also make amendments on the propositions. Napoleon named the first senators, as indeed he did all the ministers and the council of state. The senate, beside the veto on the laws and financial propositions of the prince, had the nomination of the judges, both civil and criminal; and the prince could not pardon without consulting the ministers, the council, and one judge of the supreme court. The vacancies in the senate were filled up by the senate itself, a third going out every four years; and, for each vacancy, a list of three was presented to the senate by the prince, who was obliged to take the candidates from a list presented to him by the district assemblies. The prince had the appointment of all offices (ecclesiastical, civil, and military), except judicial. The revenue was far less spared than under the frugal constitution of 1799, for the prince was allowed £16,000 a-year. The salaries of the ministers were much more moderate, from £120 to £200 only; and the senators had £50. The principality was exempted from conscription; but all able to bear arms were enrolled in the militia. It is a singular circumstance, that the decree of the gonfaloniere, anziani, and council, excludes foreigners from all offices except judicial; the remains, it should seem, of the old practice so general in Italy, of vesting judicial places in foreigners. The constitution given by Napoleon contains neither the exclusion nor the exception.

The population of the duchy is about 150,000; its revenue nearly £80,000 a-year; its army 750 men and 2,000 militia; and the expense of the court about £16,000, the sum fixed by Napoleon's constitution.

The principality of Parma, with a population of nearly half a million, of whom 3,000 are clergy, regular and secular, and a revenue of nearly £300,000, consists of the two duchies of Parma and Placentia, which have been united ever since the middle of the sixteenth century; and Guastalla, united in the

middle of the eighteenth, by the Peace of Aix-la-Chapelle, having belonged to Mantua, and been detached as a principality for a younger branch of the family. Parma and Placentia were first Lombard duchies; then, like the rest, republics; and, in the twelfth century, were members of the Lombard league. They then fell under the dominion of petty tyrants or princes; the Palavicini, Scotti, and others having Placentia, and the Pios of Correggio, the Scalas, and the Viscontis, Parma. The Viscontis afterwards acquired both at different times, and then the Sforzas. In Julius II.'s time, the French having overrun them, and being soon driven away, the duchies surrendered themselves to the Pope, under whom they were, with some intervals, from 1512 to 1545, when Paul III. formed them into a principality for his nephew, or rather his bastard, Paul Louis Farnese, a person almost as infamous, though not so renowned for his vices, as Borgia himself. His descendants succeeded for seven generations, when, the male line failing in 1731, on the death of Anthony Francis, the duchy went to the younger son of his niece Elizabeth, who had married Philip V. of Spain; and, excepting from 1735 to 1738, when it passed to Austria,* the Bourbons held it till the death of Ferdinand, in 1802, when it was given up to France, and the kingdom of Etruria erected as a compensation for his son. In 1805, Parma and Placentia were annexed to the French empire, forming the department of the Taro; and Guastalla was given to Princess Pauline Borghese (Napoleon's sister, the most celebrated beauty of the age), who sold it to the kingdom of Italy. All these were again united, in 1814, into a principality for Maria Louisa (Napoleon's wife), at whose death they revert to the Duke of Lucca, and Lucca is added to Tuscany. The Duke of Lucca had been deprived, in 1807, of Etruria, without any compensation, when that kingdom was annexed to the French Empire; and Lucca was given to him, for the life of Maria Louisa, in 1814.

Modena is somewhat less considerable than Parma, having a population of about 380,000, and a revenue of £280,000. It consists of Modena and Reggio, formerly Lombard duchies, afterwards republics, and members of the League, and then petty principalities under the D'Este family, to which they gave themselves up in 1288 and 1289 respectively, following the example

* The duchy passed from Don Carlos when he became King of Sicily and Naples; but the Peace of Aix-la-Chapelle restored it to the Spanish prince.

of Ferrara in 1264. So great was the desire of the Ferrarese to protect themselves from the evils suffered under the successive factions which distracted their commonwealth, that they conferred on Obizzo D'Este absolute authority; and an old chronicler remarks, somewhat irreverently, that "more power was bestowed upon the new ruler than the Deity himself possesses, who cannot commit injustice." Succeeding times, however, revived the spirit of party, and the D'Estes were more than once dispossessed of their dominions, the popular government being occasionally restored, and occasionally the popes obtaining the possession. The treaty by which Reggio, in 1409, was given up by the inhabitants to Niccolò III. (D'Este), binds him never to alter their laws, nor increase or change the taxes which are specified, without their consent. In 1530 the two duchies were in the hands of the Pope, Clement VII. (Giulio de' Medici), who, with the grasping disposition and intriguing spirit of his family, was desirous of retaining perpetual possession. The D'Estes resisted, and Charles V. being appealed to as umpire, decided that Ferrara should be held as a fief of Rome, and Modena of the Empire. The pope, in 1598, having, as we formerly saw (Chap. xvi.), expelled the duke's successor from Ferrara, the D'Estes retired to Modena, which they have held ever since, Beatrice, the mother of the reigning sovereign by an Austrian archduke, having been the heiress of the D'Este family on failure of male issue; and having also inherited from her mother, the heiress of the Cibo and Malaspina families, their duchies of Massa and Carrara,* which are thus now united with Modena and Reggio.† The states of Modena were annexed to the Cisalpine republic in 1797, afterwards to the kingdom of Italy in 1805, and they were restored to the grand duke in 1814.

The monarchy in both Parma and Modena is perfectly absolute; the sovereign makes laws and levies taxes, and arranges all things relating to the revenue, as well as the government, by edict or ordinance. It is often said that Modena is under a more absolute government than any other Italian state; but when we find the prince in Parma issuing (1784) an ordinance to remedy, as he termed it, the embarrassment of his finances (soulager notre tresor), and establishing with this view a general farm of

* The nephew of Innocent VIII., a Cibo, had by inheritance the Duchy of Massa and married the heiress of the Malaspinas, Dukes of Carrara.

† The Modena states are sometimes called *Stati Estensi*, but this more properly belongs only to Modena and Reggio, and not to Massa or Carrara.

his taxes, confessing in the preamble the reluctance with which he has recourse to an expedient so little likely to promote the happiness and peace of his subjects;* when we find him, a few years before (1764 and 1765), passing a mortmain law by proclamation, and subjecting all formerly bequeathed property to taxes from which it had been exempt; and again, in 1768, banishing the Jesuits, and in 1769 abolishing the inquisition by his own mere authority; how commendable soever the greater part of these acts may be, we can entertain no doubt that his power is as unrestrained as any possessed by his neighbour. The present sovereign has governed with an authority equally unlimited. She has retained the publicity of judicial proceedings prescribed by the Code Napoleon; but the code substituted in 1820 for her illustrious husband's, by her ordinances, though in some respects sufficiently liberal, framed by great lawyers and since followed in other states,† punishes political offences with great rigour; and, what makes any improvement of the law useless, and, indeed, the existence of any bad law of less consequence, she exercises a dispensing power, according to her personal interest or caprice. Thus, in the face of the law, common to Parma and all Catholic countries, which excepts adulterine bastards from legitimation, either by subsequent marriage of the parents, or by rescript of the prince, she legitimized the issue of two persons who had exchanged wives, that issue being born after the adultery. So she refused a public trial (their right by law) to the persons whom she caused to be tried by a special commission, for high treason, in 1822 and 1823. On the same occasion, officers were put in the commission to try their superiors in rank, with a direct interest to find them guilty; and confidential disclosures, made by some of the accused to the archduchess's husband,‡ on condition that they should not be used at the trial, were privately communicated to the judges. One of those convicted, a man of superior station, was sold to the King of Sardinia, and sent to work in the pestilential mines and marshes of that island, no law

* An Irishman, named Magauley, a great advocate of liberal opinions in Ireland, farmed these taxes most oppressively in Parma.

† It has been freely used in framing both the Neapolitan and Sardinian Codes. See Chap. xvii.—xix*.

‡ When Napoleon died in 1821, she contracted, or at least avowed, a marriage of the irregular kind called Morganatic of which we have already spoken (Chap. xiv.) with an Austrian general officer.

in Parma sanctioning such a punishment. The extravagance of the court, the large establishments compared with the extent of the principality, the mismanagement of the whole finances, arising from their secret and uncontrolled administration, and, above all, the sums required for supplying the different branches of the family, have led to the heavy taxes so severely felt by the people; and to such embarrassments as led to the panic in 1784, a great aggravation of the pressure. That the sovereign in Parma is unfettered by any constitutional check, is an undoubted fact; that he occasionally abuses the power, is an inevitable consequence; and it is also, though needlessly, proved to follow.

Nevertheless it also is certain, though this may possibly be accidental, that much less oppression exists in Parma than in most of the petty principalities of Italy, and that in Modena the general amount of tyranny has been exceeded. Under no restraint from either popular institutions or public opinion, neither of which have any existence in this petty monarchy, the sovereign was no sooner restored to his dominions in 1814, than he abrogated all the beneficial laws which had been introduced while the state belonged to the kingdom of Italy, retaining the severe fiscal regulations, and reviving many of the ancient oppressive municipal regulations which had been in disuse since the times of the republics in the middle ages. But the perpetual interference of himself or his agents with all the transactions of his subjects is in practice a yet more intolerable grievance. Creditors have been prevented from suing their debtors, or from enforcing the decrees which they had obtained. Corporations, as well as private families, have been obliged to administer their affairs according to the pleasure of himself or his creatures. The sentences of courts have been refused execution. Tribunals have been created for the trial of particular persons, with directions to proceed by a new course of law, invented after the parties were arrested; and then they have received further directions to disregard the former, and to try by a still more recently devised method. Thus in 1820 many persons were cast into prison on a charge of belonging to the society of Carbonari; in 1821 an edict was issued directing all cases of treason to be tried before a new kind of tribunal called *Statario*, from the summary or expeditious nature of its process (from *Statim*); and these courts were to finish the trials within eight days. In 1822 a court of

this kind was created, with directions to try 47 persons, without almost any of the protection, small as it was, which the original edict had given them. The trial proceeded, not in eight days, but after a delay of three months; contrary to the edict of 1821 the prisoners were not confronted with the witnesses; the witnesses were not examined before the whole court; counsel were not allowed for the defence till the proceedings were nearly over, and then only upon a solemn promise never to reveal what passed in court; and discretionary punishments were awarded instead of those specified in the first edict. Arbitrary arrests, imprisonment without trial, banishment from the country, have been the lot of all who, by their political principles, gave umbrage to the court or its creatures. Sometimes the extent of the tyranny has been hardly credible; nor could anything short of the evidence afforded by the proclamations of the government itself obtain our belief. A Manifesto was issued in 1832, after an earthquake had been felt, and when some alarm was entertained of an insurrection. The earthquake was ascribed to the vengeance of Heaven upon the professors of free opinions; and the duke, after stating that he had been apprised of a plot against his person, added, that he was bound in good faith towards his informants to conceal their names; wherefore he should not bring the parties accused to any trial, which, besides, always affords chances of escape in consequence of the difficulties of proving charges, and the various forms of law; but as there would be a moral certainty of guilt being proved if he had an opportunity of producing his witnesses, he is resolved now, and in all such cases for the future, to condemn the criminals (that is, the persons secretly accused) to extraordinary punishments, milder however than the courts would inflict, beside the addition of banishment.

Oppression is made a measure of revenue as well as a means of overawing the discontented. Reviving the financial exactions of the dark ages, the duke in 1831 issued an edict against the Jews, and accused them of repaying the toleration which they enjoyed, by unworthy conduct, without specifying any particulars. The inference drawn from these premises was, that they were, as a body, to pay £24,000, for which their land as well as persons were made liable.

The press is under restraints more severe than in any part of the western world; for not only are new publications subject to the most rigorous censorship, but no one can sell or even lend an old

book unless it has the stamp of the two censors, a layman and a priest. Yet of this engine the government is fain to avail itself; and a newspaper appears under its direct control, but inculcating principles so shamelessly arbitrary and despotic, that the neighbouring princes, absolute though they be, and patrons of unlimited power, have forbidden the circulation in their dominions of a work which they deem hurtful to the bad cause by the extravagance of its enmity to freedom.*

The general nature of petty states, that is, the effect produced upon their governments, their administration, and the condition of their inhabitants, by the circumstance of their narrow extent, forms an important subject of consideration; and it is immediately suggested by the three monarchies which we have last been examining, those of Lucca, Parma, and Modena; in some degree by that of Tuscany also.

1. The first and principal evil thence arising is, the more arbitrary nature of their government. The positive and indirect checks upon the power of the sovereign are likely to be much more feeble, if any at all shall continue to exist. He is brought so near every individual, above all so near every one of influence; his power presses so sensibly, and is so hard to escape from; an adverse party has so little support from the petty community; the court runs such an insignificant risk from insurrection—that in the course of time every institution opposing a barrier to the prerogative falls into ruin, or remains only to be a restraint in form and in name. The indirect and preventive check of public opinion and the fear of rebellion, more important than any other in absolute monarchies, and without which the positive check of institutions can work little good in those governments, nor produce their full measure of benefit to liberty even in mixed

* The facts recorded in the text are calculated to illustrate the structure of the Modena government, and turn rather upon its tyrannical nature than upon the mere personal qualities of the prince who administers its powers. The fate of the liberal party with whom he intrigued in 1830, with a view to an Italian Union if France and Austria had gone to war, may, in part, no doubt, be referred to the want of control from public opinion, but in still greater part it must be set down to the account of individual character; and so far, indeed, it throws additional light upon the grievous tendency of all unlimited sovereignty to the worst abuses from its exercise depending upon the accident of individual qualities. These associates of his were not only abandoned but denounced by him when the course of events altered his views; they were seized at the house of a ringleader, who had been in the duke's confidence; they were cast into prison, and he was executed.

monarchies, can hardly be said to have any existence in petty principalities. As always happens in political affairs, these things act and react one upon the other. The princes of Parma and Modena have no dread of public opinion, because their subjects are too well watched by them and their agents to express their hostile sentiments freely; and the subjects dare not give vent to their complaints, because they know the unscrupulous and overbearing nature which the exercise of power in such states has superinduced in their masters. The public voice is not heard in meetings, or clubs, or newspapers, because the sovereign power imposes silence; and that power is by the silence rendered more uncontrolled.

2. In a narrow community the prince and his court are constantly interfering, meddling, busying themselves about all persons and all things, to a degree which the inhabitants of larger states cannot easily conceive, except perhaps the select few who love to bask in royal neighbourhoods, and are willing to pay the price of such an exposure. Not a purchase can be made, a lawsuit carried on, a marriage contracted, or any other family arrangement settled, but the princes or their officers must take a part in the matter. The interposition is not mere trouble to the parties; it constantly obstructs and thwarts their proceedings. Then, any neglect of the sovereign pleasure intimated is perilous; and men's words as well as their actions being under perpetual watch, a disrespectful expression is punished; oftentimes the false report of one is acted upon as true; and always the fear of such visitations haunts those exposed to such risks.

3. The disproportioned number of public functionaries employed by these princes is both an aggravation of their oppressive government, and a fruitful source of other burthens upon the people. Parma has more judges than England, with not a thirtieth of our population. Under the French empire it formed a department, and was administered by a prefect and some subprefects; it has now great chamberlains, ministers of finance, of home and of foreign affairs, a council of state, half a dozen governors of provinces, with a host of lesser functionaries. Here again action and reaction operate: the subject is oppressed by the expense of this overgrown political establishment, and its extent tends directly to increase the prince's power, and make its exercise more oppressive.

4. It is a very considerable addition to these evils that the

intercourse of the inhabitants with their near neighbours is rendered nearly as difficult as that with foreign nations. The men of Parma have constant occasion to communicate with those of Modena; but there is as much trouble with passports and custom-houses as an Englishman finds on entering France. The frontiers of all countries are on this account inhabited with much inconvenience. But countries like Parma and Modena are all frontier. The people of Guastalla, indeed, are subject to an extraordinary amount of this discomfort; for that duchy being entirely surrounded by the Modenese and Lombard dominions, its inhabitants when resorting to Parma, the capital of their own country, at only twenty miles distance, must be provided with passports, which have to be examined, and their baggage searched, five or six times, both going and returning.

Nothing has been more common with statesmen and with political reasoners in general, than to dwell upon the evils inflicted upon the people by the turbulent and factious commonwealths of both ancient and modern times; and certainly in those invectives themselves there has not been any great exaggeration. But when they are employed to introduce a comparison advantageous to monarchical at the expense of popular government, we are entitled to pause, and to reflect upon the mischiefs, at least equally intolerable, which arbitrary power, exercised over a small state, never fails of entailing upon its inhabitants. A petty principality, we may rest assured, is as much more unbearable than an extensive monarchy, as a petty republic is worse than a great commonwealth.

There is a material element in the constitution of the supreme power, common to all the Italian states, but producing more immediate consequences in the lesser ones: their princes rely upon foreign support in case any unexpected event should occasion a struggle with their subjects, contrary to all probability, as we have shown. As Austria is ever ready with her force in Lombardy to assist the branches of her family elsewhere, the sovereign of Parma only finds it necessary to keep 1000 men in arms; and in Modena there are but twenty companies of all kinds. It is supposed that the government dares not trust to native troops alone: but whichever way we may decide that point, the people save nothing by the army being small; for they have to pay and maintain the Austrian auxiliaries.

CHAPTER XIX.*

ITALIAN MONARCHIES—*(concluded.)*

LOMBARDO-VENETIAN AND SARDINIAN.

LOMBARDO-VENETIAN KINGDOM—Component parts—Lombard Cities—Diet of Roncaglia—Government of the Cities—Lombard League—Peace of Constance—Princes and absolute Government—Viscontis; Sforzas—Spanish tyranny; Viceregal Government—Austrian Administration—Constitution of 1815—Benefits of Constitutional Government.

SARDINIAN KINGDOM—Component parts—Rise of House of Savoy; its History—Government of Savoy; of Piedmont—States; their disuse—Senates—Emanuel Philibert's reforms—Absolute power of the Crown; Registration of Edicts—Codes—Judicial and Municipal Systems—Constitution of the Island—Early history—Early Constitution; Judges—Spanish Conquest—Sardinian Parliament; Stamenti; Corti—Feudal System; Nobility—Imperfect Federal Union—Evils of Viceregal Government—Administration; Courts; Councils; Edicts—Regent—Judicial System—Intendant—Supreme Council—Misgovernment and oppression; Jews; Waldenses; interference with Courts—Abuses of absolute Power; present King; Charles Emanuel III.; persecution of Giannone—Italian Monarchies—General Reflections.

THE Lombardo-Venetian kingdom comprises Austrian Lombardy, sometimes called the Milanese, from its most important province, with the provinces of the Venetian republic. The union of the two states, and the formation of the new kingdom, took place in 1814, and comprises the greater part of the provinces and principalities which constituted the ancient Lombard kingdom, every part of it having belonged to that monarchy excepting the city of Venice, which the Lombards never possessed.

All the continental provinces of this important state, which now has a population of between four and five millions, and a revenue of between three and four millions sterling, were reduced to subjection, by Otho I., about the middle of the tenth century, after having been in an uncertain but generally independent state from the dissolution of the Lombard monarchy, upon the death of Charles the Fat, in 888. For nearly a hundred years after Otho had confirmed his authority, the chief towns in the different provinces were under the influence of the nobles; but the other classes having made considerable progress in wealth and in improvement, maintained a struggle in which they often prevailed against the feudal lords, and ended by obtaining the chief management of affairs, substituting a civil to a rural aristocracy, and allowing little or no direct influence to the body of

the people at large. The emperor refusing to acknowledge the right of the towns to choose their own magistrates, a long struggle took place, which ended in their recognising the emperor as their suzerain or over-lord, and his admitting their right to administer their own local government.

The bishops, originally chosen by the clergy and people, afterwards by the emperor, about the beginning of the eleventh century, had, in almost all the Lombard cities, become counts, exercising the temporal government in their sees; and this continued for upwards of a hundred years; though, in Piedmont, they only lost their temporal authority in the early part of the thirteenth century. At first, the nobles, with the bishop at their head, and the principal citizens who formed the bishop's council, had the government in their hands, though the body of the citizens chose the magistrates, subject to the bishop's approbation; but there seems no sufficient reason for believing that, before the twelfth century, any government which could be called republican, whether aristocratic or democratic, was established. The general constitution of the towns was to choose consuls, who administered, and who commanded the armed force; they were taken from the three classes of greater nobles, lesser nobles (or *vavasors*), and burghers; and a council, or *credenza* (trust), sitting in secret, carried on the deliberations of the government; a general assembly or parliament being called of all the citizens upon extraordinary emergencies. When the lesser nobles, and afterwards the burghers, obtained the ascendant, the feudal lords, as such, were excluded from all offices, and could only hold them by enrolling themselves as members of the trading companies or corporations; but, excepting for the regulation of inferior matters, there was not, properly speaking, any legislative power exercised by the local governments of the Lombard towns. They were still under the imperial authority; the emperor's arrival in any town immediately superseded the functions of all magistrates as long as he remained there,* and he was at all times regarded as the fountain of the law. He assembled the diet, as we have seen (Chap. xvii.), at Roncaglia, near Placentia; and there, according to the plan of all the early feudal parliaments, promulgated his edicts, on some of which, at least, he received the opinion of the prelates and the feudatories who attended; and, in executing all of which, he obtained their support in their own districts. We have no accounts, on which

* Ott. Frising. ii. 13. ap. Mur. ix.

any reliance can be placed, of the composition, nor any minute details of the mode of proceeding at those diets, in the earlier times, or even so late as the tenth or eleventh centuries; but, considering the importance which the Lombard towns had attained, it seems plain enough that the leading men among the civic aristocracies must have attended before they had overthrown the party of the rural or feudal nobility. That persons from the towns (probably their magistrates) attended as early as the reign of Otho II., appears from the account we have of the diet held by him in 980, when he is said to have held the "accustomed convention of the nobles and Italian cities at Roncaglia," as if they had been used to attend before that time.* At the diet, justice was administered as well as edicts promulgated; and these assemblies were sometimes called *Placitum Generale*, as well as *Mallum;* there being, indeed, considerable doubt whether *Mallum* and *Placitum* be not synonymous; though the better opinion† seems to make the former the important and general court or diet, to which all were summoned; and the latter, the inferior one, attended by certain classes only, as the officers, and *scabini*, or *echevins*, whom we have spoken of in a former chapter (Chap. xi.). The principal difference between the imperial diet at Roncaglia, and the Lombard assembly at Pavia, was that the clergy were summoned to the former.‡

But although originally the Lombard cities exercised no

* "Procerum et civitatum Italicarum solennem conventionem apud Roncalias habuit." (Sigou, lib. vii.)

† Muratori inclines to this opinion. ii. 929, (Diss. xxxi.)

‡ There is a great and not unnatural disposition among Italian writers to carry the popular form of government as far back as possible. Giulini, in his elaborate and voluminous work on Milan (tom. iv. p. 34), describes the diet held at Roncaglia in 1154 as attended by "Consoli co' majori o principali cittadini;" and as he cites no other authority than Otto, Bishop of Freisingen, in that part of his book, he must rely on the passage which gives an account of the same diet, lib. ii. c. 13, ap. Mur. ix. 711. But this does not agree with Giulini's statement; it is "de universis civitatibus consulum *seu* majorum conventus," plainly using *majores* as a substantive and synonymous with *consules*. Otto's authority is very high on such a point; he was uncle of Frederick I. and attended the diet in question. Radevicus, canon of the same cathedral, wrote a continuation of the bishop's chronicle; he describes the diet of 1158 as attended, beside the princes and nobles, by "consules et civitatum judices." (Lib. ii. c. 1, ap. Mur. ix. 785.) How obsequious the members of the diet were, he plainly shows by the account he gives of the praises with which they "all, one after another, wasted the whole day, in extolling the emperor's eloquence, though he could only address them through an interpreter." The Archbishop of Milan too, in their name, delivered an answer, or address, to the emperor's speech from the throne; took his text from different passages of Scripture, supposed to inculcate

legislative power, they began early to assume it, first in less important matters, and afterwards to a greater extent, as their influence increased; and there is every reason for thinking that, before the League was formed, certainly before it had established the independence of the cities in 1183, the power was exercised generally by all the members of that celebrated confederacy, which we must now proceed to consider.

Having made themselves independent of the bishops and rural or feudal nobles, the principal cities then began to quarrel among themselves. Milan oppressed Lodi and others intolerably; and, on the emperor endeavouring to restrain these hostilities, Milan and several other towns resisted, and were for some years defeated with great loss, Milan being captured by Frederick I., and almost entirely destroyed. Soon, however, they combined in larger numbers, the greater part of the towns forming a league, in 1167, for the establishment of their independence; while only Pavia, Cremona, and a few others remained under his authority. The confederates having defeated the emperor, he acknowledged their independence by the Peace of Constance, in 1183, giving them the right of peace and war, and of municipal government, and expressly renouncing all right of levying taxes, while they agreed to regard him as their suzerain, to furnish certain trifling supplies when he visited Italy, and to give him a contingent of troops in case he was at war with any towns out of the league. The Peace of Constance declares the independence of seventeen cities, Milan, Lodi, Bergamo, Brescia, Parma, Placentia, Modena, Reggio, Vicenza, Treviso, Verona, Mantua, Faenza, Bologna, Padua, Novara, Vercelli; but it refuses to acknowledge Imola and six others of inferior note. Ferrara has two months given to join the associa-

passive obedience, as a bishop used frequently under our Tudors to make or rather preach a speech to the Parliament at the opening, taking a text (4 Inst. 8), and especially dwelt on the civil law doctrine that the sole power of legislation belongs to the prince. The emperor himself in his speech seems to admit the diet to some share of deliberation; for he speaks of obsolete laws being revived by "imperial remedy and the diet's providence." The course of proceeding at that diet is worthy of particular attention. He consulted for three days with "the prelates and a few of the princes, his councillors," none else being present. On the fourth he delivered his speech; then justice was administered in the diet; next he recognized the right of the towns to choose their magistrates, subject of course to his confirmation; and lastly he promulgated laws in his own name, only stating that he enacted them at a council; "habito concilio, edictali lege sancimus." The admission of the towns at a diet that he had right to the regalian rights of coining, &c., was only made after he had called four judges to declare the law, and they refusing till more were called in, he summoned two judges from each town, when all the 28 agreed.

tion. Asti, Como, Alessandria, Tortona, Genoa, Alba, Cremona, which had taken part with Pavia for the emperor, became parties to the treaty; and it is remarkable that a clause is inserted (the fourteenth), giving the parties full power to maintain, and as often as they please to renew the league,* as we have seen that the provisions of our great charter reserved a right of resistance to the barons (Chap. ix.). The seventh article provides that appeals to the emperor shall be heard by his legate, or nuncio, whom he undertakes to appoint for each city, in order that the suitors may not have to seek justice in Germany; and each nuncio is to swear that he shall decide according to the laws and customs † of the particular city; a proof that legislative power had been locally exercised long before. The two remaining marks of subjection left by this treaty (the emperor's power to confirm the choice of magistrates, and the appeal to him in suits above twenty-five livres value) were by degrees effaced in all the towns under the succeeding emperors.

We have seen (Chap. xvi.*) that the constitutions of these towns were of a form in which aristocracy predominated, and that the extremes of factious violence in each place, and of mutual jealousy and hostility among the different communities, checked the progress of improvement everywhere, while the people in the country districts were uniformly ruled by the towns with a degree of harshness and injustice resembling the civic tyranny of ancient times. The importance of the towns was mightily increased by the pains which each took to attract inhabitants, and indeed by the solid advantages which they held out of pro-

* Art. Pacis Constantiæ apud Murat. Diss. t. iv. 301.

† "Secundum leges et mores illius," (Mur. iv. 301.) See Durandi's learned memoir, Turin Academy, 1838. This matter is open to much controversy; and it is difficult to have a confident opinion when so learned and judicious a writer as Muratori (ii. 282), after great hesitation, appears to decide that the laws mentioned in the articles of Constance, were only the customs of each town, which we know that Charlemagne (Leg. Longob. l. 148) declared to have the force of law, by laying down the rule of all jurisprudence, that long usage when not hurtful has that force. He explains in this way the collections made in writing of the laws of Pistoia, in 1107, erroneously supposed by Benvoglienti to be 1197, Genoa, in 1143, and Pisa, in 1146. But whoever examines these early collections will find that they enter into such numerous and minute details of sums and times, as makes it impossible to suppose the rules had grown up through custom. See Raggi, *Monumenta, Hist. Pat. Leges*, 236. Carlini, *Disq. de Pac. Const.* The collections were certainly compiled by commissioners, who swore only to state for law what skilful men reputed to be so; but they had recourse to two classes of Periti, those skilled in law and those skilled in customs. Giulini, v. 486. They proceeded in something like the course taken in France for ascertaining the customs by Tourbes. (Chap. xii.)

tection from violence, as well as of commercial and political privileges. Milan and Pavia became more populous than many of the great capitals of Europe; but the extinction of the feudal power, and the ascendant acquired by the civic aristocracy, increased the turbulence of party in every town; and, about the middle of the thirteenth century, Milan began the practice, which was soon after followed by other places, of choosing a person possessing superior influence from personal qualities, rank, or wealth, as a chief or leader, beside the regular and ordinary magistrates. Before the beginning of the fourteenth century all the Lombard cities, except Genoa, Cremona, and one or two others, had, by the natural consequences of faction and anarchy, taken refuge in the more bearable tyranny of a single lord. Thus Modena and Ferrara and Reggio became subject to the D'Estes, Placentia to the Palavicini, Verona to the Scalas, Padua to the Carraras, Mantua to the Buonacorsis and Gonzagas, Parma to the Correggios. The name at first given to the person thus chosen varied; it was sometimes captain, or chief, or anziano; but it generally became lord or signor. At Milan he was called *Anziano della Credenza*, or chief of the confidential council; and afterwards lord of the people (*Signor del popolo*). The family of Torriano, or Della Torre, first held the station; and, before 1265, they were lords also of Bergamo and four other towns. They acted exactly as the Medici afterwards began by doing in Florence,—maintaining the old institutions; the consuls as executive magistrates; the foreign judge, or podestà; the credenza, or council; and the anziani, or senate; but ruling over all by their influence, and by the support of the multitude; and in a few years leaving no remains of liberty. In 1276 they were opposed by Archbishop Visconti, at the head of the exiled nobles; and the people joining against their former leaders, the Torriani were expelled, and Visconti was declared "Perpetual Lord of Milan." At first the heads of the family succeeded by election; afterwards this, with all the other forms of popular government, including the mock discussions in the senate, were laid aside, and the lord issued edicts, levied taxes, declared war, and exercised all the prerogatives of an absolute prince. In 1395 the emperor conferred on him the title of Duke of Milan and Count of Pavia. By force, and by fraud, and by matrimonial alliances, the Visconti family had obtained the sovereignty of all Lombardy Proper, of great part of Piedmont, of Genoa,

of Lucca, Pisa, and Sienna in Tuscany, of Parma and Placentia, of Bologna, and other parts of Romagna. In the fifteenth century they lost a great part of those possessions, having neither capacity nor credit, from their conduct and character, to retain their extensive power; for few families have ever left a reputation so unenviable, whether we regard virtue or ability. The Venetians seized Bergamo and other provinces on the east; Genoa threw off their yoke, and established an independent republic; the provinces south of the Po became independent; and Mantua formed a separate duchy.

The possession of the Milanese, or duchy of Milan, now extending seventy miles from the Alps to the Po, and sixty from the Venetian to the Genoese frontier, was strongly contested upon the failure of the Visconti family by the death of Philip, in 1447, without male heirs. The emperor claimed it as a fief escheating for want of heirs of John, the first grantee, in 1395; the King of Naples claimed it under a will in his favour, made by Philip; the Duke of Orleans claimed under a settlement made at the marriage of his mother, the daughter of John, and sister of the Visconti who married Lionel Duke of Clarence, son of our Edward III. The Milanese seized the opportunity of re-establishing their republican government, which they maintained for three years. But factions soon distracted the state; and Francesco Sforza, a military adventurer of talent and courage, son of a peasant, who had become a noted condottiero, and himself a captain of condottieri, having obtained the government of Ancona, as a fief from the pope, and married the natural daughter of Philip Visconti, was employed by the Milanese as their general, overthrew the constitution, and made himself duke. His family enjoyed the duchy till the close of the fifteenth century, when the French invaded it on the revival of the Orleans claim, Louis XII. being Duke of Orleans before he succeeded to the crown; and they obtained possession of Milan for some years. A long period of disputed dominion ensued, the duchy forming a principal object of contention to the French, the Austrians, and the Spaniards for many years, in the course of which the Sforzas occasionally recovered their possession, under the influence of one or other of those belligerent parties. Upon the extinction of the family, in the reign of the great scourge of Italy (as he was indeed of whatever country he ruled), Charles V. (1535), it came into the undisputed possession of the house of

Austria, and, for a century and a half, formed a portion of the vast dominions of the Spanish crown, then in the Austrian family, and suffered, like Sicily and Naples, all the evil consequences of vice-regal government, aggravated by the tyrannical propensities, narrow-minded views, and bigoted prejudices of Spaniards.

The accounts that have been preserved of this dismal period exceed any history of misgovernment elsewhere. All the privileges and exemptions which had been granted to any classes or families were made binding and perpetual; legal chicanery was patronised, and the gains of lawyers increased, so that no titles were safe, and the profession became, as at Naples (Chap. xvii.), the only flourishing trade. The proceedings of all courts being carried on in Latin, and all edicts only published in Spanish, the people were subject to a law which was locked up from their knowledge. It was administered by a senate of fourteen counsellors and a president, with seven secretaries from the different provinces; but they held themselves bound by neither rule nor reason, and avowed it as their principle to decide by their arbitrary will, like divinities (*tamquam deus*). Viceroys often dispensed with all forms of proceeding, and punished or tortured at pleasure, laughing at the remonstrances of the senate, sometimes even setting at naught the orders of the Spanish government. The inquisition was established in all its rigour; the priests were exempt from civil and criminal jurisdiction of the ordinary courts, living, as a late able and learned writer remarks, in the heart of the state, but owing no allegiance to its government;* and their houses were places of refuge for all malefactors. The rest of the people were bent to the earth under the weight of taxes levied to supply the rapacity of the Spaniards, both the crown and its agents. In some districts the cultivators paid six pounds a-year on an average, equal to above twelve at this day; and though the distinction was oppressively and unjustly made in all stages between the towns and the country, in favour of the former, the average payments by the whole inhabitants amounted to two pounds sterling each, equal to twice as much at this day, being considerably more than the people of England themselves now pay to the state. Add to this the dilapidation of the crown property, the sale of royal rights, the oppression of all commerce by monopolies, as well as severe and injudicious prohibitions; the coin shamefully tampered with;

* Morbio. Storia dei Municipii, tom. iii. p. 101.

the troops left unpaid in order that money might be remitted to Spain, and providing for their own subsistence by pillaging the country; the police so entirely neglected that bands of robbers occupied the roads, the lakes, the canals,—a band of eighty actually sacking, on one occasion, a monastery at the gates of Milan; assassins hiring themselves in open day; and the government, in impotent proclamations, complaining of these outrages;—and we shall the less wonder at the inhabitants flying from such a country, in spite of threats of capital punishment denounced against emigrants, and at the senate representing to the crown, in 1668, the condition of whole districts (among others, Pavia, Cremona, and four large towns), as that of a "most sad desert" (tristissimo deserto), from the ruin of their buildings and the flight of the people. One viceroy, however, during his government, amassed near half a million sterling; and, in the midst of this general misery, there were 1,600 private carriages, with 4,500 horses, and 1,500 saddle-horses, kept by the nobles of Milan alone. It is not to be wondered at if, in the north as in the south of Italy, the name of Spaniard is still detested, and the assertion fondly though mournfully repeated, that it never yet was associated but once with a great captain, nor ever with a good statesman.

With the rest of the Spanish monarchy, the duchy of Milan became the subject of the disputed succession which involved all Europe in war during the early part of the eighteenth century; and it was by the treaties of Utrecht and Baden vested in the house of Austria, which had also seized on the duchy of Mantua during the war, expelling the Gonzagas for the part taken by them with France. Each succeeding war, however, has seen Austria fighting for the retention of this valuable dominion, which she has sometimes lost for a number of years. It was secured to her by the Treaty of Vienna, 1738, of Worms, 1743, and of Aix-la-Chapelle, 1748; but the victories of Napoleon, in 1796, and the arrangements of the peace made in 1797, and again in 1801, appeared to have for ever separated these dominions; and they formed the principal part of the Cisalpine, afterwards called the Italian Republic, and then the kingdom of Italy, until his fall in 1814 restored them to Austria, with the bulk of her other conquered provinces.

During the first part of the war, a scandalous transaction had taken place between the French Republic and the emperor,

Venice, invaded and conquered by the champions of natural rights and the friends of universal liberty, without the shadow of a pretext for the attack, had been given over, with the necessary destruction of its republican constitution, to the head of the continental coalition, formed expressly to resist the French inroads upon national independence. The aristocratic republic had been converted into a provincial government under the Austrian monarchy, and afterwards had been taken by Napoleon and annexed to the Italian kingdom at the peace which followed the battle of Austerlitz, in 1805. That kingdom had a population of not less than six millions, including, as it did, Modena and considerable portions of the papal states. These, however, were restored at the peace in 1814, and the Po became the southern boundary of the Austrian provinces, consisting of the duchies of Milan and Mantua, and the Venetian territories, both insular and continental; and the whole were formed into the Lombardo-Venetian kingdom.

The administration of Austria, since the termination of the Spanish dominion, has brought a great improvement to the condition of those provinces, and the progress made by the people has been considerable both in wealth and in education. The sums expended upon public works, especially since the late peace, have been ample, considerably above £1,500,000 sterling, chiefly on roads and bridges in the course of fourteen years, beside £1,000,000 upon cross roads by the parishes. Still more creditable is the extension to this kingdom of the system of education established in the German provinces; so that in Lombardy there are above 3500 schools for the 2300 parishes, and these are attended on an average by about 63 per cent. of the children between six and twelve years, the age at which parents are required to send them. Instruction is gratuitous, and the salaries paid by the parish are from £10 to £15. The system has also, but somewhat later, been introduced into the Venetian part of the kingdom. It was a noble saying of the Emperor Francis, forming a striking contrast with some other speeches recorded of him and with nearly all his acts, when more severe laws to repress assassination were demanded, "Wait till all the people can read, and they will give over stabbing." When to these things we add the excellent police by which the Austrian government secures life and property at a moderate expense of personal liberty, in all but political cases,

we shall be disposed to admit that, under a government nearly absolute, as much prosperity is enjoyed by the people as in such circumstances can well be expected.

But the government has undergone very little real improvement in its structure since the period before the French Revolution, to which event may certainly be ascribed many of the administrative improvements. After the congress of Vienna, during the hundred days that followed Napoleon's return from Elba, and while he was preparing his forces for the war, the Austrian emperor published a constitution for the Lombardo-Venetian kingdom. It is a masterpiece of outside show, and when examined it gives the people little or nothing but the name of constitution.

It divides the kingdom into two, the Lombard or Milanese, and the Venetian—of which Milan and Venice are the capitals respectively; it appoints for each a central congregation, and for every province of each a provincial congregation. The governor or viceroy, generally an archduke, resides at Milan; each division consists of delegations, the Lombard of nine, the Venetian of eight; each delegation is under a delegate, and each parish has a magistrate called a *Podestà*. The Austrian codes have been established instead of the Code Napoleon; in a few particulars, as in abolishing confiscation even of fugitives on account of political offences, and, in being milder, as far as regards capital punishment, the penal code is better than the French. But the judges are removable, the trial is not public; bail is only allowed in minor offences, and where the party is known, and of good repute; the proceedings are all in writing; the judges who decide never see either the accused or the witnesses; these are examined in the absence of the accused, though they may afterwards be confronted with him; he is treated with more or less rigour, according as his own answers prove more or less satisfactory to the examining judge; he is allowed no advocate, and only three days to prepare his defence after seeing the case against him; finally, the courts of review may make the sentence more severe, as well as lighter, in their discretion—capital defects, some of them peculiar to the Austrian law, and all of them sufficient to destroy any other merits which it may have. Torture had been nominally abolished since the time of Joseph II.; but the practice of flogging a prisoner who did not make such disclosures as satisfied the judges in the secret ex-

aminations continued; and when the Code Napoleon was abrogated in August, 1815, that form of torture was restored. The public indignation caused its abolition in the following December, but the penalty of heavier irons and a lower diet is still inflicted if his demeanour, or his answers, be unsatisfactory. The punishments, too, are of a cruel description, though death is so rarely suffered. The *carcere duro*, and *carcere durissimo*, are inflicted not merely on felons, but on men of the highest station and attainments, for political offences. They are loaded with irons, excluded from all human intercourse, made to sleep upon bare boards, and fed upon a low diet, into which no animal food enters. It must be added, that religious toleration is universal and absolute; and that all classes have equal privileges as to qualification for office. In practice, too, the severity of the law seems mainly to be reserved for political offences, which indeed are the only ones that a government can ever have any interest in visiting with rigour; and as the people have no protection from the power of the sovereign when he chooses to exercise it, nor any security for the due administration of justice, imprisonment for years without a trial, nay, without any charge specifying the cause, degrading punishments inflicted on men of exalted rank and great accomplishments, solitary confinement in distant fortresses, banishment for life from the country, without a trial, have been the lot of some, and may be of any against whom the prince or his favourites conceive a suspicion, or entertain a prejudice.*

The central congregation consists of nobles, of landowners not noble, and of representatives of royal towns; each province is represented by a noble, and a landowner not noble. The crown chooses the *first members* out of three presented by the elective bodies; one-half go out at the end of every three years. Future vacancies of all kinds are filled up by the provincial congregations naming three to the central congregation, which names are for the approval of the crown. The crown has the power also of removing any member "who shall appear to it to have shown himself unworthy of the confidence reposed in him." The viceroy or his deputy presides over the central congregation.

* The authority for all that is stated respecting the Austrian law is the *Codice* published by the government at Milan, particularly Arts. 349 to 377; 3 7, 387, 418, 428, and 440.

The provincial congregations consist of four, six, or eight proprietors, half noble and half not noble, according to the extent of the province, and one deputy from each royal town. The first members are named by the crown out of three presented; the vacancies are filled up by the central congregation, with the crown's approbation; and the crown has the absolute right of removal as in the former case. The royal lieutenant of the province presides.

It might have been imagined that having taken such special care to have all these nominal representatives in reality named by the crown itself, there would have been a great ostentation of confidence in the bodies thus composed, and that large authorities would have been assigned them. But even this is carefully avoided. The central congregation is only to consider such plans of extraordinary taxation as the crown may submit to it—the distribution of burthens authorised by law but not yet apportioned to different parts of the kingdom—the inspection of roads, bridges, and dykes, not maintained by the public—and the administration and income of charitable institutions. They are allowed to make regulations, and exercise a legislative and judicial power with the consent of the crown in all the matters committed to it, that is, as far as the crown desires. And they may offer to the crown whatever representation they think fit, touching the interests or wishes of the people—the crown expressly reserving to itself the discretion "of following their advice or not, as shall seem fitting." The provincial congregations have a local administration of roads, canals, taxes, and charities.

It may fairly be said that there is very little value in all this parade of a constitution which is merely the royal will and pleasure through a thin disguise and nothing else. To find indeed the Austrian government ever using a word so hated as "Constitution," and speaking of learning, "by constitutional means, the wants and wishes of the country," may seem somewhat of an improvement in a monarch who, a few years before, exclaimed, on the author of a treatise respecting the constitution of the atmosphere being presented at his court—"Constitution! ah, that's the word which has done us all the mischief." Let us hope that this is not the utmost extent of the changes to which the same supreme authority will, before long, be under the necessity of submitting; and that they who have been compelled

to pronounce the name, will soon be forced also to grant the thing. Certain it is that without it the people can have nothing like a security for the continuance of the benefits which they have derived from the comparative excellence of the administration since the Austrian succeeded to the Spanish dominion; nor can they have anything like a protection against the abuses they still suffer under—abuses only to be extirpated by that pure, open, independent administration of justice, the first blessing of a free government, as it is the great end of all government, and under any but a popular constitution impossible to be maintained.

The states of the Sardinian monarchy are not much less important in extent, population, and wealth than those of the Lombardo-Venetian kingdom, their inhabitants being upwards of 4,000,000, of which nearly 500,000 belong to the island of Sardinia; and their revenue about £2,800,000, of which the island pays about £110,000. They comprise the duchy of Savoy, the foundation of the whole, and to which the other dominions were at different times added—the principality of Piedmont, or Piedmont proper, and the districts which generally go under that name, though formerly they were separate duchies and counties, as Montferrat, Aosta, Vercelli, Asti, and others, acquired by the House of Savoy at different periods, by conquest, marriage, or inheritance, from the end of the 11th century, when the heiress of the Italian Marquisate brought them Piedmont, down to 1735, when Austria gave them up Novara and Tortona, a part of the duchy of Milan—the country of Nice, which they obtained at the beginning of the fifteenth century by cession from the Anjou kings of Naples, who had, as Counts of Provence, held it since the Arragonese dominion of that country ceased in the middle of the thirteenth century—the island of Sardinia which they obtained in 1720, as an exchange for Sicily given them by the Peace of Utrecht in 1713, Sardinia having, since that peace, passed to Austria from the Spanish monarchy after being under its yoke for three centuries—lastly, the duchy of Genoa, delivered over to them by an unprincipled and impolitic act of the congress of Vienna in 1814, taking it from France, with which it had been incorporated by one of the worst outrages that Napoleon ever committed against the rights

of independent states, and giving it over, against the earnest desire of the people, to one of the princes who had made war upon him for this very offence.

Savoy itself was originally a province of the kingdom of Burgundy or Arles, and at the beginning of the eleventh century Bertold was in possession of it as a feudatory of that kingdom. His son Humbert, as the reward of assisting the Emperor Conrad the Salic in reducing the Burgundian vassals by allowing his Italian troops to pass the Alps, received the addition of Aosta, part of that kingdom, to his fief; so early did the "JANITORS OF THE ALPS," as the dukes of Savoy have been termed, begin to profit by their position. Otho, his son, succeeding him, married the heiress of Manfred, and thus obtained (1045) the March or Marquisate of Italy, consisting of the provinces originally forming the Lombard duchy of Turin, but which afterwards were the frontier portion of the kingdom of Italy, under the successors of Charlemagne, and were by them placed under a margrave, or marquis (Chap. xi.), whose office with its territory became, like other feudal offices, hereditary. By skilfully taking part with different powers during the wars of the three next centuries, by marriage, and sometimes, as in the case of the county of Geneva and Ossola, by purchase, the counts of Savoy * made many additions to their dominions, which now extended to the Mediterranean from the Lake of Geneva; and Amadeus VIII. was, in 1416, created Duke of Savoy by the Emperor Sigismund, and gave up his duchy on being elected pope, or rather anti-pope. His son Louis for a time was elected King of Cyprus in right of his wife, heiress of that crown; it was soon taken from him, and afterwards passed to Venice, but the family still take the title of Kings of Cyprus and Jerusalem. The position of the duchy became full of hazard during the wars of the 16th century between the Emperor, France, and Switzerland. For the first fifty years it was hardly ever without the presence of foreign armies, by which it was ravaged, and for half the time it was in possession of France, the family only being restored by the peace of Cateau Cambresis in 1559, to Emanuel Philibert, the hereditary duke; who, beside having

* One of them, Peter, uncle of our Henry III.'s wife, came to England, and was created Earl of Richmond; and inhabited a palace in the district near the Thames, now called from him the Savoy. Henry's brother, Richard Duke of Cornwall (King of the Romans) gave him the succession of Kyburg, including the Pays de Vaud, which Savoy long possessed.

shown great military talents in the service of Charles V. and Philip II., had married Margaret, sister of Henry II. of France. Geneva, however, and the Pays de Vaud were separated for ever, and established their independence; and in the reign of his son Charles Emanuel, the provinces of Bresse, Bugey, and Gex were given up to France, in consideration of Saluzzo, which Savoy was allowed to acquire. We have already noted the other acquisitions of the House of Savoy, by which its dominions on the mainland have been so greatly increased.

All the principalities of various kinds and extents which were thus united had been originally, with the exception of Savoy itself, Lombard duchies, afterwards divided into counties during the Carlovingian race, when first the empire of Charlemagne and then the kingdom of Italy had feudal sovereignty over these counties, exercising a more vigorous sway over them in their subdivided state than the Lombard sovereigns could possess over the more powerful duchies before their division. Of these duchies Turin was the most important while undivided. Like the other principalities in the north of Italy, those of Piedmont became republican in the twelfth and thirteenth centuries, several of them joining the League. In the same manner, too, they afterwards fell under prelates whose authority lasted to the thirteenth century, about 100 years longer than the same episcopal government continued in the commonwealths to the eastward. These princes, or petty tyrants, possessed nearly absolute power; and when; one after another, the states were all united under the House of Savoy, and the seat of government was established at Turin, a monarchy of considerable power was formed, somewhat after the manner of the Prussian, of various states, inhabited by people of different customs, habits, language, laws; but who, being governed in the same way, and combined in one system, in the course of time came to be like one people, with common features of national character, save only that the Savoyards continued easily distinguishable from the Piedmontese.

Although this monarchy was always fated, from its position, to be the scene of hostilities as often as the great powers of Europe were at war, yet no considerable vicissitudes were experienced by it during the seventeenth century; but in the eighteenth, after obtaining Sardinia, with the title of king in 1720, and other territories of lesser importance in 1748, by the Peace of Aix-la-Chapelle, Savoy itself, with Nice, was conquered and united to

France in 1792; Piedmont overrun in 1796 was also united in 1797, the royal family retiring to the island, where, like the court of Naples, they remained until the Peace of 1814 restored their continental dominions. Like the court of Naples too, that of Savoy was, in 1820, disturbed by an insurrection which had for its object the establishment of a parliamentary constitution; the movement, aided by the military, was at first successful; but the Holy Allies interfered, as at Naples, and restored the court with the old government, which has, like that of Naples, and for the same reason, continued unchanged to the present time. We shall presently see the causes of the revolt more particularly.

Thus, as to its continental portion, the Sardinian monarchy presents no variety of feature to distinguish it from that of the other kingdoms which arose out of the Gothic, and afterwards Lombard dominion. Like all those kingdoms, it had originally states in the several duchies, beside the General Assembly or Diet, to which its chiefs and magistrates were summoned by the emperor or other suzerain. In early times the states exercised considerable authority; and though like all the others they were only assembled occasionally, yet on some matters of importance they made their influence be felt. Thus in 1330, on the death of Edward, the states of Savoy preferred his brother Aymon to Edward's daughter, married to the Duke of Britany; and laid down a rule that females should never succeed, however near in blood, so long as any male relative, however remote, survived. That in truth, however, the legislative power belonged to the court, and that the states were only called in upon emergencies, or when money was wanted, appears from this: that six years after his accession, Aymon, of his own authority, not only created a chancellor and a general court to sit at Chamberi on appeals from all local courts, but issued an edict, making all judges amenable to the council at the suit of any individual whom they might have wronged. The states of Piedmont consisted of three orders—the clergy, the nobility, and the towns; and they appear, like those of Savoy, to have been assembled when money was to be voted, and also to have assisted at the promulgation of laws; sometimes, especially when the duke was in want of aid in money or in troops, to have been consulted on the laws which he published by his edicts. But Emanuel Philibert, soon after the middle of the sixteenth century, called together this body both in Piedmont and Savoy, for the last time, substituting in

their place two senates, one for Savoy, one for Piedmont. The functions of these bodies were to be judicial chiefly, but they were to have the power of recording or registering the edicts of the duke; so that they were clearly formed upon the plan of the French parliaments. (Chap. xii.—xiii.). No such expedient as the Bed of Justice appears to have been used, or to have been wanted; for the senators were all named by the duke, and removable at his pleasure. He introduced another change, however, of still greater importance to the executive power; he abolished the military service of the crown vassals, and substituted for them a payment in money, by means of which he was enabled to form a regular army on the model of those troops to which he had been accustomed in his foreign service, the infantry of France and that of Spain, then the best in Europe. He also established a militia under the name of "Provincial Battalions," each province furnishing men in proportion to its population; to be called out once a-year, and receive a small pay in time of peace, but, in case of war, to join the regular forces. The same system, with some modification, still continues; the regular army being recruited by a conscription, another term, being eight years, after which the conscript serves eight years more in the militia.

During the half century that followed the able and vigorous reign of Emanuel, who has been regarded as the founder of the monarchy, the duchy being involved in war, and frequently pressed by the armies of France, the senates upon some occasions remonstrated and obtained terms from the duke before registering his edicts. No such instance of opposition has ever occurred since 1630: for the members of his privy council named by the duke, and with whose advice his edicts are framed, are the principal officers of the senate; and thus all his ordinances, whether legislative, executive, or financial, are implicitly registered and submissively obeyed. Since that time the monarchy in the continental states has been wholly absolute, without even the forms of a legislature. There is no affectation of liberty, no attempt to conceal the extent of the royal authority. The preliminary article of the Civil Code promulgated in 1837, lays it down in express terms, that the power of making laws belongs to the king alone, and that he exercises it by edict or letters-patent, after consulting with his council (s. 4); that the officers of state who countersign these legislative instruments, and the senate

and royal chamber of accounts, which registers them, may, if they please, make representations to the king on any matter contained in them (ss. 6 and 7), suspending the regulation till he decides; that to the king alone belongs the interpretation of the laws (s. 16), and that magistrates shall apply to him for this purpose; only it is provided that neither his edicts nor his interpretation of them shall have a retrospective effect, nor alter judgments already pronounced. But in practice, as we shall presently see, this, the only kind of restraint on the royal legislation, is not very strictly regarded, nor can it be of any great avail while the whole power of suspending as of enacting laws belongs to the King. How entirely the registration of the royal edicts has now become a matter of form, may be seen from this: that the Criminal Code of 1839, consisting of 13 titles and 739 articles or laws, is dated 26th October; and the act of its registration by the senate of Savoy bears date 8th November, and that by the royal chamber of Turin 5th November, leaving less than a fortnight to both those bodies for considering its provisions; and the Civil Code of 1837, consisting of 39 titles and 2415 articles or laws, is dated 20th June, and registered by the Royal Chamber of Turin and the Senates of Turin, Nice, and Genoa respectively, on the 3rd, 7th, 13th, and 15th of July, leaving from a fortnight to three weeks to each for discussing a whole system of civil jurisprudence.

There have been three codes of the Savoy and Piedmontese laws; one for Savoy in 1430, called *Statuta Sabaudiæ*, promulgated by Amadeus VIII.; another by Charles Emanuel III. in 1770, called *Costituzioni Reali;* a third by the reigning sovereign in 1837 and 1839, sometimes called *Codice Albertino*, and consisting of the two codes which have just been mentioned, for the whole continental monarchy. The original law was, like all those of the European states, a mixture of the feudal and civil; but in 1771 Charles Emanuel permitted by an ordinance all persons, whether corporations or individuals, to commute their feudal services for fixed money payments, to be assessed by a court appointed for the purpose. The military service of the great vassals to the crown had been, as we have seen, commuted two centuries before by Emanuel Philibert. But the code of 1770 left the feudal jurisdictions nearly on their old footing, the baronial judge being the ordinary judge, both civil and criminal, in the first instance, though with an appeal in civil cases to the prefect, or

judge named by the crown, in like manner as there was an appeal to the same judge from those judges in the first instance whom the crown appointed (lib. i. tit. 5. s. 4. and lib. ii. tit. 4. s. 7); and in criminal cases the senate's authority was required for all sentences, whether appealed or not (lib. ii. tit. 22. s. 2). The baronial judge, too, had no jurisdiction in causes between lord and lord, or lord and vassal (lib. ii. tit. 4. s. 6). During the French occupation, all the feudal rights and services had been abolished by different edicts; and on the restoration of the court in 1814, though the Code Napoleon was displaced and the Code of 1770 (*Costituzioni Reali*) revived, the abolition of feudal law was retained. The laws now in force, by the Code of 1837 (following that of Parma), are chiefly founded on the principles of the Roman law, with most of the improvements which have been introduced by the mercantile jurisprudence of modern times; but the preference of males to females, though without right of primogeniture, and the power of entailing real estate, with the leave of the crown and under certain restrictions,* are retained from the feudal system. The criminal code is not severe, less so than our own;† and torture was abolished in 1817. The judges are of course appointed by the crown, and they are removable. The trial of criminals is conducted entirely by the judges and the advocates of the opposing parties; the witnesses being examined by a judge in secret, and not in presence of the accused, and the judge preparing his report of the examination to the court, which decides upon that and upon the written statements of the advocates or parties. There is a public officer appointed as advocate of the poor.

The towns and parishes have councils for local administration, composed of the notables or principal inhabitants of the place, under a mayor (*sindaco*), appointed by the crown; and all

* Thus the entailer cannot disappoint those children who have rights to a portion of his property; he can only entail the portion which he may dispose of by will. Entails, too, of property under £400 a-year are forbidden, except on special grounds.—The obligation to grind corn at certain mills (what we call *soke mills*), a remnant of feudal servitude, has been revived.

† There are fewer capital punishments than in our amended law; for we must in fairness lay out of the account the capital penalty annexed to violence done to the Host or to Nuns, this following from the erroneous religious doctrines of the Romish Church. (Code Criminel, liv. ii. tit. 1 and 9; liv. ii. tit. 10, ch. 2. s. 2.) The comparison of this code with our own, especially in liv. ii. tit. 10. ch. 1. s. 3, is much in its favour. Still more so is the comparison with the sanguinary code of Charles Emanuel III., 1770.

their acts are under the control of the Governor and Intendant, or financial administrator of the province.* The capital (Turin) is possessed of large revenues, having, beside local taxes, considerable landed property, with jurisdiction over the neighbouring villages;* and it has several councils, with peculiar privileges of local government.

The constitution of Sardinia stands in a relation to that of the continental dominions similar to the relation between the Sicilian and Neapolitan kingdoms. There was, in former times, a more regularly established parliamentary government in the island than ever existed on the mainland; and it has left remains of its former structure, down to a late period. The Vandals from Africa, in the fifth century, disputed with the eastern empire the possession of Sardinia; afterwards the Goths obtained a footing; and the Greeks having again acquired the ascendant, the Saracens, in the eighth century, overpowered them, ravaged the island, and were only defeated by the aid of the Lombards, who in their turn yielded to Charlemagne; and his successor, Louis, is affirmed by the Church of Rome to have included the island in his gift to the church; hence the Holy See claimed it as a fief, in the same way that we may remember it urged the like pretensions to Sicily and Naples (Chap. xvii). After a long struggle, which lasted nearly 300 years, the Saracen yoke seemed firmly established, when the pope preached a kind of crusade for the deliverance of the island, offering it to any power that would expel the infidels. Pisa and Genoa both undertook this task, and completely succeeded. The island was rescued; and these republics having, in 1022, gained an entire victory, quarrelled about the division of the spoil. Pisa then turning her arms against Genoa, defeated her, and remained mistress of the island. The Saracens were foiled in another and desperate attempt to regain possession; and the Pisans now divided the island into four governments, each under a governor, who was called a Judge. These Judges had supreme civil as well as judicial, and in a short time also military, authority, frequently taking the title of Kings, and justifying their claims to it by making war on one another, according to the nature of the royal animal. As Sardinia was one of the chief bones of contention between Genoa and Pisa, these petty provinces were exposed to the same reverses of fortune as the two republics, of which they might be regarded as the fiefs;

* Turin has the title of Countess of certain places, and Lady of others.

but the Pisans on the whole prevailed, and their detestable policy being to foment discord among the different parts of the island, they effected this successfully by maintaining its four-fold division under the Judges. At one period the Pope obtained its cession, so far as to give the Judges investiture, and receive tribute from them: but, in 1267, the Pisans having again acquired the undisputed possession, continued for a long time to resist the papal claims; till, at length, the Holy See formally deposed the republic, and conferred the island upon the kings of Arragon, early in the fourteenth century. They had, however, like all the objects of papal bounty, to conquer for themselves the dominion which the Vicar of St. Peter had bestowed on them; and as the feudal system had been established in Sardinia, they found those means of forming alliances, which that scheme of polity so often presented to facilitate the operations of an invading force. Many of the barons renounced their allegiance to Pisa, and were content to hold under the Spanish crown. One of the Judges likewise joined the invaders; and, in 1326, the island was annexed, without further contest, to the Spanish monarchy, under which it continued to suffer all the ills of Spanish viceregal government, until the results of the War of the Succession transferred it, as we have seen, first to Austria, and then, in 1720, to Savoy, with the title of King.

The commonly received opinion is that the parliamentary constitution of Sardinia was the work of Peter IV. of Arragon, who is represented as having first called an Assembly, by the name of *Corti* (an Italian word manifestly taken from the Spanish *Cortes*); and composed of three orders or states, called *Stamenti*, also a Spanish term; but when assembled to form the Corti, those states are called *bracci*, branches, or arms. It is by some, however, asserted that the regular Corti were first instituted in 1420, by Alphonso V.; while it seems sufficiently probable, that even long before Peter IV., and in the times of the Judges, there were the assemblies which occasionally all the feudal chiefs, whether kings, dukes, or counts, used to hold. The Stamenti, are the *ecclesiastical*, consisting of three archbishops, eight bishops, and three mitred abbots, with representatives from the chapters; the *military*, consisting of the nobles and knights, who may appear by representatives chosen in the stamento itself; and the *royal*, consisting of deputies from the towns. The Archbishop of Cagliari, the capital, presides in the first;

in the second, the head of the most ancient house; in the third estate, the *capo giurato* or senior municipal magistrate of Cagliari. The nobles or peers may hold each three proxies; and nobles who are also Spanish barons may be represented by commoners, a privilege which the native Sardinians do not enjoy. Like the Sicilian parliament, the three Stamenti meet at the opening in the same place, where the Archbishop of Cagliari makes, on behalf of the whole, an address in answer to the viceroy's speech. After this, the Stamenti retire each to its own chamber, and they carry on their communications with one another by each sending two of its members as envoys, or messengers, to the others. Whensoever a petition from the three Stamenti to the crown on any subject receives the royal assent, it becomes law; anciently it had only force from one assembly to another; afterwards it obtained the full force of law. The king or his viceroy alone having the power to summon the Corti, he only did so upon great emergencies, and chiefly when he was in need of money; the Stamenti therefore added petitions to their *donativi*, or grants of supply, and the laws thus made were thence called *passionati*, solicited laws, as it were, laws in return for the benevolences of the states. The assembly of the States for general purposes, is, properly speaking, the Corti; a Parliament, is when they are assembled for a particular object.* But it was not unusual for one of the states, as the nobles, alone to meet and to pass resolutions, which if the crown agreed, were binding on that one order. It was always the practice of the Corti at their meeting to appoint eighteen persons of their number, called *provvisori*, who formed a court for the trial of any officer of the government impeached either by the Corti or by individuals, for breach of public duty. No Corti has been called since 1699; but the reigning family have assembled the States, in a parliament, on several occasions; as when the French armies invaded Savoy and Piedmont in 1793; when the royal family retired to the island, having lost its continental dominions; and when money has been wanted. The donatives, originally granted from three years to three years, and which made it necessary to assemble the Stamenti at the end of that period, afterwards came to be

* In England the meeting was always a Parliament, unless the Royal Authority, as in 1688, 1788, and 1810, was wanting; in Scotland the meeting for general purposes was always a Parliament, or Estates in Parliament; for merely granting money, it was the Estates only.

granted for ten years. It should seem that in these donatives each stamento assesses itself; that every direct contribution requires their grant; and that the crown by edict registered in the Royal Audience may impose indirect taxes, as duties of customs. This we may remember was also the rule in Sicily, while the parliament was in existence. (Chap. xvii.)*

The feudal system lasted much longer in Sardinia than in any other part of Europe; it was only abolished by the edict of 1836, when baronial jurisdictions were suppressed, and all services of the vassal to the lord commuted for money payments. Those services had been very burthensome, and varied in each district, or even in each seignory; nay, they sometimes varied in the different villages of the same fief. Villenage did not exist anywhere; but each person of eighteen years old on a fief paid a certain head-money and certain renders in kind to the lord, as a personal payment, beside the services which all who held land under him were bound to perform for that land; and there were other dues still to be rendered, such as tithe of cattle, tax for keeping up the baronial gaol, fine upon each conviction for a crime, in the nature of our frank-pledge, and of the similar liability in some eastern monarchies, (Chap. vi.) There were 188 fiefs belonging to Sardinian barons, of which 146 had jurisdiction; of these 32 were in the crown, and 114 in 32 subjects. Six Spanish nobles held the same number of fiefs, or 188; so that there were in all 42 barons, of whom 38 had seignorial jurisdiction. The other class of nobles who have titles without fief or jurisdiction, and the knights, cavaliers, or gentlemen, are very numerous; and all these classes have important privileges, such as not being amenable to any ordinary tribunal, but only to the Royal Audience, of being tried by their peers, and of having a space of 26 days allowed to answer any action brought against them. Although only six of the great houses are Spanish, and live out of the island, possessing as they do one-half the fiefs, yet the whole ancient nobility are, with two or three exceptions, of Spanish origin. The Spanish kings very

* Authors differ in their account of what might be supposed a matter of such public notoriety as to preclude all doubt, the time when the Stamenti last met. Valery, Voyage en Corse et Sardaigne (ii. 28), says they have not met for forty years.—Marmora, Voyage en Sardaigne (liv. iv. c. 4), says they met in 1821.—Manno, Storia di Sardegna (lib. xi. xiii.), seems to give 1751 for their last meeting.—These discrepancies may perhaps be reconciled by supposing that the late meetings have only been for formal matters, as swearing a viceroy, or doing homage to a new sovereign.

soon began the system of dispossessing all Italians who held Sardinian property, and, by not very slow degrees, conferred the forfeited possessions upon their own creatures. Entails are general; but where the land is not entailed, all the sons succeed on an intestacy, as in Savoy and Piedmont, as they used to do in the Saxon times of this country, and as they still do in Kent.

It thus appears clearly that the Imperfect Federal Union has produced in Sardinia the same effects as elsewhere. A constitution approaching to free government was established; the rudiments of one that might have been altogether popular existed; but the sovereign, possessing other dominions of far greater importance, was enabled to disregard any opposition of the Stamenti, because he could put down any resistance, and did not depend upon their donatives in carrying on his government. The result would have been widely different had his power been confined to the island, and no foreign ally been suffered to supply the force by which his people were overpowered.

The unlimited authority which the crown thus possesses is exercised through a viceroy, and the evils of viceregal administration are added to those of absolute power. He takes two oaths, inconsistent enough with each other; the one at Turin, before setting out, to obey the king and execute his ordinances in all things; the other on his arrival in the island, to govern by the laws, statutes, and privileges of the realm. His appointment is for three years; and he has a council, called the Royal Audience (*Audiença*), which is likewise the supreme court, and composed of three chambers, two civil and one criminal, of five members each. These chambers meet in one when they act as a council and as a court of appeal, and when they register the viceroy's edicts, against which they may make representations, as the council of Piedmont may, but the viceroy is to decide. When registered, the viceroy's edicts (*pregoni*) have the force of law; even if not registered, they are binding during his viceroyalty, and until abrogated by his successors; and hence, until 1827, when a new and very voluminous code for the island was promulgated, the Sardinian code consisted of royal edicts, of acts of the Corti (*Capitoli di Corti*), of pregoni which had been registered and were equally binding with edicts and acts, but also of pregoni unregistered. It was also at all times difficult to tell what pregoni were still in force; and the promulgation of the new code

must be regarded as an important benefit conferred upon the island, if its provisions made no other improvement upon the law.*

The next officer to the Viceroy is the Regent, or President of the Audience; he is the chief judge, and also minister of justice. Among his other functions, he has the sole censorship of all theatres, and the censorship of the press, jointly with the Archbishop of Cagliari. The Viceroy in pardoning offences must obtain the assent of the Audience; but he has the absurd privilege, similar to one we found in Rome (chap. xvi.), though less absurd here because vested in a public functionary, of pardoning three convicts at his pleasure on Good Friday. The Audience has the privilege of recommending candidates for the magistracy, and for episcopal sees. The Viceroy presides, if he pleases, even when it sits as a court of justice; but then he has no vote. The provinces are under ten Prefects, who are doctors of law, and of late years only administer justice, subject to an appeal in the Audience; there are distinct courts (*curie*) which prepare the causes that come before the Prefects, both civil and criminal, taking the evidence and reporting it. Two peculiarities are to be noted in the judicial system. The Regent is judge without appeal in all causes that come before him by consent, and he acts as our courts of conscience do in deciding all causes of inferior importance, sitting twice a-week for that purpose, without any regard to the forms and niceties of the law. The viceroy and audience twice a-year hold a grand session, called *siziata*, in the gaol of Cagliari, to hear all the complaints of prisoners of whatever description.

Beside the viceroy there is an Intendant, for the financial administration, holding his office, like the viceroy, for three years; and he has provincial intendants and other officers under him. The revenue is not all required for the expenses of the island, and one grievance of the Sardinians is the payment of a portion to the general treasury of the kingdom; another is the employment of Piedmontese in the higher offices. But both these causes of complaint existed in a much greater degree during the Spanish viceregal government. It is however a striking proof of the evils of such an administration, that no sooner had the court removed to Sardinia in 1793, upon the first republican invasion,

* It is understood that the Code of 1827 is temporary, and to be replaced by a better digest of the law.

than the king, gratified with the reception he met with, desired the people to lay before him a statement of any changes in the system of government which they were solicitous to have made; and though their demands were, by the influence of Piedmontese councillors, refused, (indeed they went to the almost entire separation of the island from the continental dominions,) yet afterwards, and when the court retired a second time to Sardinia, some favourable changes were made in the administration; and much more attention was paid to Sardinian interests. After the manner of the Spanish government (Chap. xvii.), the court of Turin has a Supreme Council for Sardinia, consisting of five members and a regent, in which the king transacts all the affairs connected with the island.

The history of the Sardinian government, since its restoration in 1814, is well calculated to show the evils of an absolute monarchy, even when the severe discipline of adversity, too recent to have been forgotten, might seem to render any gross outrages on justice as unlikely as they were impolitic.—Torture was at first revived, having, during the French government, been, of course, abolished; and as late as 1816 convicts were broke on the wheel; but the universal disgust was too powerful for the court and the priests, and they were compelled to give up those barbarous remains of legitimate principle.—The influence and the activity of the priests have been unbounded. Owing to them it is that the Jews are kept in a state of suffering and subjection unknown in any part of Italy, Modena excepted, nor suffered, even in a commercial town like Genoa, to have more than a toleration for years, renewable on payment of heavy exactions.—Owing to the same prevailing influence is the persecution of the Waldenses (Vaudois), a Protestant people, who have felt their lot the more severely, that as long as the French government lasted they were placed on the same footing with the rest of the community, and were afterwards treated almost as outlaws.—Again, marriages and other transactions entered into on the faith of the law during the empire, were treated as nullities, and all the rights acquired under them were shaken.—Edicts were made to prevent creditors from suing their debtors;* to declare wills, bad in law, valid;† to make parties try their causes before special courts, and forbid them going before the ordinary tribunals;‡ to force

* Regio Patente, 30th May and 15th June, 1815.

† Reg. Pat. 22nd July, 1814; 3rd February, 1815; and 19th April, 1816.

‡ Reg. Pat. 29th July, 1817.

parties to agree to a compromise which they resisted; to declare sentences void which had been solemnly pronounced years before, some having even gone through two or three appeals, and to make the whole matter be tried anew by the senate, acting under a new and special delegation for the particular occasion.—These, and such outrages as these, it was, that operated at the moment when Naples had subverted its old government; and made the Piedmontese revolt against theirs. They were joined by the present sovereign, then Prince of Carignano, who, however, did not appear among those whom he had been mainly instrumental in exciting to resistance, when that resistance called down the interference of the Holy Allies. The Austrian arms restored the government; and many of the liberal party suffered, and still suffer, though their associate is now, and for ten years has been, on the throne of the monarchy. The important legislative improvements which the enlightened ministers of this prince have been not only suffered, but encouraged, by him to effect, highly praiseworthy as they are, cannot suffice to veil this dark passage of his life, or justify the erasing all mention of it from the history of his reign.

If we go back somewhat further, to the reign of the last reformer who filled the Sardinian throne, and whose valuable amendments of the law and sacrifices of revenue, as wise as they were generous, have gained him the undistinguishing panegyrics of authors, Charles Emanuel III., we find this digester of codes, amender of laws, destroyer of feudality, equalizer of public burthens, repealer of taxes, founder of military schools, encourager of learned men, permitting, if he did not perpetrate, (and for our present argument it signifies little which,) one of the most atrocious acts of oppression by which the history of the eighteenth century was disfigured—the seizure, imprisonment, possibly death, of the able, learned, and virtuous Giannone. This great lawyer and historian, among the most eminent and most honest men of an age renowned for talents and worth,* had been driven by the persecution of the monks and their mob

* Whoever would duly estimate the prodigious merit of Giannone's great work, must bear in mind that it was written long before the invaluable labours of Muratori had, as it were, thrown open to the world the materials of Italian history, and also given the student a key to its study. Giannone was a man of general learning, and by no means a mere lawyer. He wrote upon subjects of physical science; and of the two or three authors whose works were the companions and solace of his captivity, Lord Bacon was one.

from Naples to Vienna and Venice, thence by the spiteful acts of the Jesuits to Geneva, where he was treacherously inveigled by an agent of the Sardinian government, an officer in the king's household, to pass the Easter season at his villa in the adjoining territory of Savoy. He was there, by the most perfidious breach of hospitality, in the dead of the night, arrested by a body of guards under his host's own command, and under an order bearing Charles Emanuel's signature; and hurried away to a dungeon, first at Chambery, then at Turin, afterwards, at Ceva, his son being likewise seized and imprisoned, but in a distant gaol. After two years' confinement, he went through the ceremony of disclaiming, like his great countryman, Galileo, and was formally absolved by the Inquisition, but not released. Moved from fortress to fortress, bringing his confinement repeatedly and in vain by petitions before the king and his minister, both of whom personally knew him, and were well aware of all the circumstances of his case, he lingered out the remainder of his life, and died in prison twelve years after his arrest—a far more illustrious victim of a tyranny more unquestionably unjust than that by which Louis XIV. has made his name so much more infamous; for we are ignorant who it was that wore the iron mask, and on what grounds he was confined; whether any execrable treachery attended his caption, or any act of his own palliated the maltreatment which it could not excuse: whereas of Charles Emanuel's offence all the particulars are known; it is designed in perfidy, blackened by cruelty, consummated in a spirit unrelenting as it was sordid, the scheme of courting papal and priestly favour to further a pending intrigue; and it derived no extenuation from any act of its victim, unless the fearless promulgation of truth, and the sacrifice of interest to principle can furnish an excuse for persecution.

Nor does it signify to the matter upon which we are now reasoning, whether this outrage upon all justice was the doing of Charles Emanuel, or of some agent who misled him. There is every reason for believing that he, as well as his minister, was aware of the whole facts, and that their object was to propitiate the extreme party which then ruled the Papal councils. But supposing even that neither king nor minister knew the whole extent of the perfidy by which the seizure had been made, or the entire innocence of the party oppressed, surely no more needs be said to show the evils of an unlimited monarchical

government, than that such things can happen under it, and the ruler who administers its powers be made unwittingly a tool in the hands of designing men to work such mischief.

The lesson which a contemplation of all absolute monarchies teaches, is perhaps more forcibly inculcated by those of Italy than any other, because of their number and the consequent variety of administration which they exhibit; we allude to the important truth never to be lost sight of, that such a frame of government never can afford any security to the people against the greatest sufferings from oppression and from mismanagement of their affairs, how well soever they may occasionally fare under the accidental reign of wise and virtuous princes. The natural tendency of unrestrained power is to corrupt the best natures, and the appearance of such sovereigns is inevitably a rare occurrence; nor can their invariably good conduct be safely reckoned upon, as the instance of Charles Emanuel plainly shows. But even a long course of good government, such as Tuscany has at different times enjoyed, offers no argument in mitigation of the sentence which all reason and all experience pronounces upon pure monarchy. As if to warn us against any such lenient feelings, close by Tuscany is placed Modena, with a constitution not more absolute and a sovereign of the same house, and yet we have seen how its people are oppressed and its concerns mismanaged. Lucca is in the same neighbourhood, now under a prince beloved for the kindness of his nature, and for a generous disposition that makes his subjects forget what they endured but a few years ago from the rule of the priests, who governed his mother with unlimited sway. Not only did he nobly refuse to deliver up exiles for political offences who had taken refuge in his petty principality, but as late as 1832, when his ministers laid before him the draft of an ordinance for a special commission to try persons accused of political crimes, he returned them instead a decree of general amnesty.*

Nor ought we to be misled into reposing any confidence whatever in the rule of an individual by the unquestioned and important benefits which Lombardy has derived from the wise administration of the Austrian dynasty. Its contrast to that of the Spanish viceroys, striking as it is, has a tendency to make us close our eyes to many grievous evils under which the people

* He is brother-in-law of the Duke of Modena and Emperor of Austria. Hence, perhaps, his venturing upon such liberal courses.

suffer. The hateful rule of foreigners, whose language and manners are strange to them, is not by any means the only grievance of the Milanese. No man of a certain station is secure against the workings of private enmity or the caprices of an absolute court. Many of the most distinguished persons in the country have experienced the miseries of this subjection; and if there were no other record left of its results, the "*Prisons*" of Silvio Pellico would remain as a monument of the deeds done by arbitrary power in what is deemed its mildest exercise.*

* The small principality of Monaco, extending about five miles along the coast of the Mediterranean and three in breadth, with hardly 6000 inhabitants, has been under the Grimaldi family since the fourteenth century, but is held by them as a kind of fief under the crown of Sardinia, having formerly belonged, in like manner, to Genoa. The Prince is Duke of Valentinois in France, where he resides, and spends half the revenue of £12,000 sterling, raised by taxes and monopolies from his dominions. Among these monopolies is one not long ago established of bread, wheat, and flour: it is rigorously enforced, and the bread is in consequence of bad quality and high price. A small garrison of Sardinian troops is maintained in the principality. The oppression and mal-administration which have been suffered by this little spot, so highly favoured by soil, climate, and situation, strikingly illustrate all that was said on petty monarchy in Chapter xviii. The prince has the power of exacting and tyrannizing in every way, just as far as the Sardinian government may allow.

CALIFS OF CORDOVA, OR MOORISH GOVERNMENT OF SPAIN.

756 Abderam I. (lost to Charlemagne the provinces north of the Ebro, 778).
788 Hescham I.
796 Hackim I.
822 Abderam II.
852 Mahomet I.
882 Almonzir.
889 Abdalla (son of Mahomet I.).
912 Abderam III. (son of Almonzir).
961 Hackim II.
976 Hescham II. (son of Abderam III.)
1030 Dismemberment of the Califat.

*** Where nothing is said to the contrary in this and the following tables, each Prince is understood to have succeeded on the death of the one immediately preceding, and to be the son of that one.

KINGS OF CASTILLE AND LEON.

1028 Sancho I. (The Great), king of Navarre.
1035 Ferdinand I. (Castile); 1037 (Castile and Leon).
1065 Sancho II. (Castile).
1065 Alphonso I. (Leon; 1072, Castile and Leon), son of Ferdinand I.
1109 Queen Ovacha.
1126 Alphonso II.
1157 Ferdinand II. (Leon).
1157 Sancho III. (Castile), son of Alphonso II.
1158 Alphonso III. (Castile).
1187 Alphonso IV. (Leon; 1197, Castile and Leon), son of Ferdinand II.
1214 Henry I. (Castile), son of Alphonso III.
1217 Ferdinand III., The Saint (Castile; 1230, Castile and Leon), son of Alphonso IV.
1252 Alphonso V., The Wise (Castile and Leon).
1284 Sancho IV. (Castile and Leon).
1295 Ferdinand IV. (Castile and Leon).
1312 Alphonso VI. (Castile and Leon).
1350 Peter the Cruel (Castile and Leon).
1369 Henry II. (Castile and Leon), son of Alphonso VI.
1379 John I. (Castile and Leon).
1399 Henry III. (Castile and Leon).
1406 John II. (Castile and Leon).
1454 Henry IV. (Castile and Leon).
1474 Queen Isabella (Castile and Leon), daughter of John II., and wife of Ferdinand of Arragon.
1504 Queen Joanna (Castile and Leon, and Arragon), wife of Philip of Austria.

KINGS OF ARRAGON.

1035 Ramiro I. (son of Sancho the Great of Navarre).
1063 Sancho I.
1094 Peter I.
1104 Alphonso I. (son of Sancho I.).
1134 Ramiro II. (son of Sancho I.).

1137 Queen Petronilla, d. 1172; her husband regent till his death, 1162.
1162 Alphonso II.
1196 Peter II.
1213 James I.
1276 Peter III.
1285 Alphonso III.
1291 James II. (son of Peter III.).
1327 Alphonso IV.
1336 Peter IV.
1387 John I.
1395 Martin (son of Peter IV.).
1412 Ferdinand I., The Just (grandson of Peter IV. by his daughter Eleanor).
1416 Alphonso V.
1425 John II. (son of Ferdinand I.).
1474 Ferdinand II., The Catholic, husband of Isabella of Castille.
1516 Joanna, wife of Philip of Austria.

KINGS OF SPAIN.

HOUSE OF AUSTRIA.

1496 Philip I. (son of the Emperor Maximilian, husband of Joanna of Castile and Arragon).
1516 Charles I. (V. of Germany), abdicated 1556, d. 1558.
1556 Philip II.; 1580, of Portugal.
1598 Philip III. (Spain and Portugal).
1621 Philip IV. (Spain and Portugal; 1640, Portugal separated).
1665 Charles II., d. 1700 without issue.
1700 Philip (grandson of Louis XIV. of France, afterwards abdicated).
1703 Charles of Austria, descendant of Philip I. in the 6th degree, under the name of Charles III.; disputed succession.

HOUSES OF BOURBON AND NAPOLEON.

1724 Philip V. restored.
1746 Ferdinand VI.
1759 Charles III. (son of Philip V.).
1788 Charles IV., abdicated 1808, d. 1819.
1808 Ferdinand VII., 18th March, abdicated 6th May.
1808 Joseph Napoleon.
1814 Ferdinand VII. restored, d. 1833.
1833 Queen Christina.

KINGS OF PORTUGAL.

HOUSE OF BURGUNDY.

1090 Henry of Burgundy, descended from Robert II. of France in the 6th degree.
1139 Alphonso I.
1185 Sancho I.
1211 Alphonso II.
1223 Sancho II.
1248 Alphonso III. (son of Alphonso II.).
1279 Dennis.

1325 Alphonso IV.
1357 Peter I.
1367 Ferdinand.
1383 Queen Beatrice, wife of John I. of Castile; forfeited by marriage with a foreigner, 1385.
1385 John I., natural son of Peter I.
1433 Edward.
1438 Alphonso V.
1481 John II.
1495 Emanuel, grandson of Edward.
1521 John III.
1557 Sebastian, grandson of John III., killed in Africa.
1578 Henry the Cardinal, son of Emanuel.
1580 Philip I. (II. of Spain), grandson of Emanuel by Isabella, wife of Charles I. (V. of Germany).
1598 Philip II. (III. of Spain).
1621 Philip III. (IV. of Spain).

HOUSE OF BRAGANZA.

1640 John IV. (Braganza), great-great-grandson of Emanuel, by his granddaughter Catherine.
1656 Alphonso VI., abdicated 1667, d. 1683; Peter, Regent, 1667.
1683 Peter II. son of John IV.
1706 John V.
1750 Joseph I.
1777 Mary I. and Peter III., her husband and uncle, son of John V.; Peter III. d. 1786.
1810 John VI. (Regent from 1799, his mother's insanity).
1822 Peter IV., d. 1826 (Don Pedro); Emperor of Brazil and Regent of Portugal, d. 1834; his brother, Don Miguel, pretender.
1826 Maria II. (Don Pedro acting as Regent).

*** For seven centuries and a half the succession has been in the same family, and with fewer interruptions than in any other country. There have been hardly any other successions than those of son or daughter to father. The crown has descended in this manner twenty-two times out of thirty.

KINGS OF DENMARK AND NORWAY.

HOUSE OF HAROLD BLATAND, cr. 944, d. 991.

DENMARK.	Waldemar I. (The Great), cr. 1157, d. 1182. Canute VI., d. 1202. Waldemar II., d. 1241, son of Waldemar I. Waldemar III., king with his father, 1219, d. 1231. Eric VI. (Saint), m. 1250, son of Waldemar II. Abel, m. 1252, son of Waldemar II. Christophe I., m. 1259, son of Waldemar II. Eric VII., m. 1266. Eric VIII., d. 1319. Christophe II., d. 1336, son of Eric VII. Interregnum. Waldemar IV., el. 1340, d. 1375.
DENMARK AND NORWAY. 1380.	Oloff, el. 1376, d. 1387, grandson of Waldemar IV. by Margaret. Margaret, el. 1387, d. 1412, mother of Oloff.
DENMARK, NORWAY, AND SWEDEN. 1387.	Eric IX., dep. 1439. d. 1459, great grandson of Waldemar IV. Christophe III., el. 1440, d. 1448, nephew of Eric IX.

HOUSE OF HOLSTEIN OR OLDENBURG.

DENMARK, NORWAY, SWEDEN, AND HOLSTEIN. 1459.	Christiern I., el. 1445, d. 1481, Count of Oldenburg. John, d. 1513. Christiern II., dep. 1523, d. 1559. Frederick I., d. 1533, son of Christiern I.
DENMARK, NORWAY, AND HOLSTEIN. 1521.	Christiern III., el. 1534, d. 1559. Frederick II., d. 1588. Christiern IV., d. 1648. Frederick III., d. 1670. Christiern V., d. 1699, brother of Prince George, Queen Anne of England's husband. Frederic IV., d. 1730. Christiern VI., d. 1746. Frederick V., d. 1766, married Louisa daughter of George I. of England.
DENMARK AND HOLSTEIN. 1814.	Christiern VII., d. 1808, married Matilda, sister of George III. Frederick VI., d. 1839. Christiern-Frederick, cr. 1839, nephew of Christiern VII.

KINGS OF SWEDEN.

HOUSE OF FOLKINGEN.

Waldemar, el. 1250, dep. 1275, d. 1302.
Magnus I., el. 1275, d. 1290, brother of Waldemar.

Birger, dep. 1319, d. 1312.
Magnus II., el. 1321, dep. 1363, d. 1374, nephew of Birger.
Albert, el. 1363, dep. 1389, d. 1412, Duke of Mecklenburg, nephew of Magnus II.

DANISH DYNASTY.

Margaret (of Denmark), el. 1389, d. 1412.
Eric XIII., el. 1397, cr. 1412, dep. 1430, d. 1459, great nephew of Margaret.
During the Union, from 1397 to 1521, six depositions.

HOUSE OF VASA.

Gustavus I. (Vasa), cr. 1523, d. 1560.
Eric XIV., dep. 1569, d. 1577.
John III., cr. 1569, d. 1592, son of Gustavus Vasa.
Sigismond (King of Poland), dep. 1600, d. 1632.
Charles IX., cr. 1600, d. 1611, son of Gustavus Vasa.
Gustavus II. (Adolphus), d. 1632.
Christina, abd. 1654, d. 1659.

HOUSE OF DEUX PONTS.

Charles X. (Gustavus), cr. 1654, d. 1660, grandson of Charles IX. by his daughter Duchess of Deux Ponts.
Charles XI., d. 1697.
Charles XII., d. 1718.
Ulrica, el. 1719, abd. 1720, d. 1721, daughter of Charles XI.
Frederick I., el. 1720, d. 1751, husband of Ulrica.

HOUSE OF OLDENBURG, OR HOLSTEIN-GOTTORP.

Adolphus-Frederick, el. 1743, cr. 1751, d. 1771, descendant of Charles IX. in the fifth generation.
Gustavus III., m. 1792.
Gustavus IV. (Adolphus), abd. 1809.
Charles XIII., cr. 1809, d. 1818, son of Adolphus-Frederick.

SWEDEN AND NORWAY. 1814. } Charles XIV. (John), cr. 1818, [General Bernadotte.]

Note.—d. deceased; dep. deposed; abd. abdicated; cr. crowned; el. elected; m. murdered. Where nothing else is noted, each sovereign of the same house is understood to be the son or daughter of the one immediately preceding, and to succeed on the death of that predecessor.

The titles of the Swedish kings are taken in some cases, as of the Erics and Charleses, not from their series as kings, but as princes of their several houses. Thus Charles XII. was the sixth Swedish king of that name; the first, who was king in 1161, being Charles VI. of the princes of the family of Suerker. So Eric XIV. was the sixth Swedish king of that name.

CHAPTER XIX.

SPANISH AND PORTUGUESE MONARCHIES.

Early History of Spain—Visigoths—Saracens—The Conquest—Original Constitution—Origin of the Cortes—Numbers of town deputies—Different branches or estates—Difference of the Cortes in Arragon and Castile—Encroachments of the Crown—Restriction of the right of voting—Cortes of Portugal—Power of assembling the Cortes—Commission of Cortes in vacation—Power of the Cortes—Taxation—Authority exercised over the Crown—Legislative power of the Cortes—Executive power—Right of resistance—Privilege of Union—Justizia—Benefits from free Constitutions—Decline of the Cortes—Loss of liberty—Portuguese Constitution—Causes of the decline of Constitutional Government—Practical lessons to be derived from it.

We are now to consider the governments of the Spanish Peninsula. The history of these resembles in its general outline that of all the other feudal monarchies, but it furnishes considerable varieties in the detail; and there is no doubt that we meet with more strict limitations upon the prerogative of the Crown in the former constitutions of some of the Peninsular kingdoms than are anywhere to be found among the old governments of the European Continent, except perhaps in Hungary.

From the latter part of the 5th to the beginning of the 8th century the Visigoths possessed the whole of the Peninsula, into which they had made irruptions at an earlier period, and into which they were afterwards driven out of Gaul by the successes of the Franks under Clovis. The feudal system was established there as in the rest of Europe, and the only circumstances which distinguish the Gothic monarchy of Spain from that of France are the greater power of the prelates, the more frequent deviations in the succession to the Crown, and the unity of the kingdom, which suffered no partition from the year 587, when the Suevi and Vascones were subdued by Leovegild and the whole Peninsula was reduced under one Crown, to the year 712, when it was

overrun by the Saracens.* The Visigothic monarchy ceased to be hereditary after the death of Amalaric without issue in 531. It was ever afterwards elective, and never remained for more than three generations in the same family. Contests for the Crown led the way to the subjugation of the country by the Arabs. In the Gothic times the King had a very limited power. The Councils in which the prelates had the chief sway, —being always more numerous, generally three, sometimes four or five, times more than the nobles,—not only discussed the ecclesiastical affairs, but appear to have had a large share of the legislative power in their hands, and even to have exercised the right of electing the successor to the throne. As in other countries, however, the reigning king contrived to have the son or other relation whom he chose for his successor named his coadjutor during his life, and even when this precaution was not taken the choice always fell upon one of the family.

But a distinction must be made between Spain before and after the conquest of the Saracens. Before that period the Crown very seldom continued in the same family for more than two generations, and rarely even for two generations. There is only one instance during the Visigothic monarchy of the Crown descending more than three times successively from father to son; but in the Saracen dynasty it remained generally in the same family. A code compiled from the Roman Law 30 years before Justinian by command of Alaric II. prevailed till it was abrogated by Chindaswind about the middle of the 7th century, and a collection of barbaric origin substituted in its place. In the 13th century the Roman Law was restored. But even when in the time of the Visigoths the Crown's power was most restricted, the despotic language of the Roman Imperial law was employed. The Saracens occupied the whole country for several centuries, with the exception of the mountainous dis-

* The Visigoths made war in Spain as allies of the Romans against the Suevi, Alani, and Vandals, in the beginning of the 5th century, but acquired no dominion in the country for many years. Under Euric, who reigned from 466 to 483, they reduced the whole of the Peninsula to obedience, with the exception of Gallicia, which belonged to the Suevi, and of Vasconia, which became independent. About the middle of the 6th century one of the competitors for the Visigoth throne ceded to the Eastern Empire the southern coast of Spain from Cadiz to Valencia, which was gradually recovered, but not entirely till some time between 621 and 631. Leovegild, who reigned from 568 to 587, had in the mean time subdued the Vascones and Suevi.

trict on the northern frontier and on the Bay of Biscay, and the small territory of Navarre close to the Pyrenees, which never was wholly and permanently conquered. From these provinces a struggle was kept up with the Saracens, and the kingdoms of Leon founded in the 8th century, and Castile founded in 1020, maintained and extended their boundaries. The kingdom of Arragon was formed in 1035 by the efforts of others of the Christian refugees, and Catalonia being freed from the Saracens was united with it: so was Valencia at a later period.* But the contest with the Mahometans was not finally closed by their entire subjugation till the end of the 15th century, some time before which the crowns of Castile and Leon had been united with that of Arragon by the marriage of Ferdinand of Arragon and Isabella of Castile in 1469. The northern provinces of Portugal belonged to the crown of Castile until the latter part of the 11th century, when they were separated by the gift of the Castilian king on the marriage of his natural daughter with a French prince, Henry of Burgundy. The rest of the country still belonged to the Saracens; but as the Spaniards were by degrees reconquering Spain, so the Portuguese princes expelled them from Portugal, which continued independent until the death of Sebastian in 1578, two years after which it fell under the dominion of Spain. In 1640 the family of Braganza, descended from the old kings of Portugal, headed a revolt against the Spanish Crown, and were placed on the throne, which they have retained ever since.

During the whole period which elapsed from the invasion of the Saracens until their final subjugation, the different monarchies which were formed in the Peninsula retained the kind of constitution which had been established in the Gothic kingdom before the Mahometan invasion. According to some writers the feudal system was never fixed in Leon and Castile; but the lands recovered from the Saracens were parcelled out among warlike men who were bound to defend them against the infidels, while the military character was universally raised to the highest estimation by the precarious state of the Christian possessions.

* Catalonia and Navarre formed part of the Carlovingian empire. The former became an hereditary County, called County of Barcelona, in the time of Charles the Bald, and in 1137 it was united to Arragon by the marriage of the Count with the heiress of Arragon. Valencia was wrested from the Moors during the first half of the 13th century.

Villenage was probably never known in these two kingdoms; but in Arragon, Catalonia, and the other provinces, this with all the other branches of feudal policy flourished generally. It is indeed said that the Spanish peasantry were in a state of greater thraldom than those of any other country; and one of their own writers, the Bishop of Huesca, has described their lot by saying that "they were cut in pieces by the lord, and divided among his children."

The towns in Spain obtained their immunities at an earlier period than elsewhere. Some date their independence so far back as the early part of the 11th century. They had also larger territories annexed to them. The administration of justice was invested in the judges chosen by the inhabitants at large, until in the 14th century Alphonso XI., under the pretext of preventing tumults, confined the municipal administration to a select body of magistrates in each town. It is curious to mark the very same reason used for a similar purpose four centuries later by the courts of law in England, when the political rights of inhabitants of towns were to be abridged.*

In all the kingdoms of the Peninsula, Navarre, Leon, Gallicia, Castile, Arragon, Portugal, there were assemblies similar to those which had been holden regularly under the Gothic monarchy before the Mahometan invasion. They were now called *Cortes*, or Courts,† and consisted at first of the prelates and nobles alone; afterwards of those together with the representatives of the towns; and when the towns ceased to have free municipal constitutions, the select bodies or the *regidors* of the different towns alone chose the deputies. So the number of those towns which sent deputies varied greatly from time to time, and their numbers decreased rapidly. Upwards of 90 towns sent deputies in the beginning of the 14th century to the Cortes of Castile. There were in 1315 at the Cortes of Burgos 192 representatives for 111 towns, of which some sent one, others two, others three or four, one seven, and one as many as thirteen, there being however only one vote allowed for each town. But in 1391 at the Cortes of Madrid 126 deputies attended from 50 towns only (which was their number at first in 1188), and in 1480 only

* Rex v. Spencer, 3 Burr. 1827.—The Crown in France used the like reasoning.

† So in England the body summoned to assist the Crown in making and administering the Law was called the *Aula Regis*, or King's Court.

17 retained the right of representation, to which 4 were afterwards added. It was during the weak and unpopular reigns of John II. and Henry IV. in the 15th century that the towns were so far reduced: those princes dreaded the assembling of a full Cortes, and the towns were not displeased at being relieved from the expense of sending deputies. A single deputy or two represented whole provinces. Thus two were held to be the deputies of Gallicia, Valencia, and the seven towns of Campos. When the representation had got into so few hands its possessors were strenuous against all reformation of it; and accordingly in 1506 and 1512 the Cortes of Castile impudently declared the right of sending deputies to be by immemorial usage confined to 18 towns and no more, although it is absolutely certain that 50 had been represented a century before, and 111 less than two centuries back, and that town deputies are mentioned as early as 1169. The Cortes of Arragon consisted of four Estates (*estamentos*) or arms or branches (*braços*),—the ecclesiastics, or prelates and abbots, 23 in number; the nobles, anciently called *ricos omes*, literally rich men or proprietors; the cavaliers, hidalgos or gentry (anciently called *infanzones*); and the *universidades*, corporations or towns, which in 1585 were 31 in number. The second and third of these Estates were, properly speaking, two branches of the same body—the nobility—which was thus divided into the greater and lesser barons, although these two are sometimes called the noble and equestrian orders. In all the other kingdoms there were only three Estates, the division of nobles into greater and less nobility being peculiar to Arragon. The number of nobles and prelates however who were summoned to the Cortes in all the kingdoms diminished as well as the number of the town deputies. No election of representatives among the nobles or clergy was ever introduced, as in the States General of France; each bishop or noble who sat in the Cortes sat, like our English Lords Spiritual and Temporal, in his own right. It is considered by some authorities that, at the time of the union of the crowns of Castile and Arragon in the 15th century, none had a seat in the national assemblies except those belonging to the Council of the King, who might therefore be said to sit in the Cortes officially. But it is certain that both the clergy and nobles were summoned to the Cortes of Arragon while that assembly continued in exist-

ence; and in the Cortes of Castile the nobles sat until 1538. It has however been contended by some writers that the presence of prelates or nobles at all was not at any period absolutely essential to the constitution of the assembly; for in the Cortes of Castile, 1295, none were present; there were no prelates in those of 1299 and 1301; nor any of either order in 1370 and 1373. Some two or three might be there, but the orders are named in the laws as if the bodies were present, a formality which would seem to indicate that originally their attendance was essential. The fact however seems to be, that in Castile the king in making laws was bound to have the advice and consent of a Cortes, whether of the nobles or the commons, and that sometimes he acted with the one body and sometimes with the other, the approval of both not being required.

After 1538 the Cortes of Castile consisted of deputies (*procuradores*) from the towns alone. In every reign the Cortes were assembled for the purpose of swearing allegiance to the heir apparent; and as the procuradores of the towns took the oath in that assembly, so the prelates and nobles took it individually, without meeting as a body. The Cortes which thus met may be regarded as little more than nominally Cortes, and, after the ancient privileges of the Arragonese provinces were abolished by Philip V., the meeting was attended by deputies from the towns, not only of Castile, but of Arragon, Catalonia, Valencia, and even from the island of Majorca. Still more than the assemblies of estates in the early times of the other feudal monarchies, the Cortes of Castile were exceedingly variable and irregular in their composition. The interference of the Crown in elections of deputies began to take place as soon as the importance of the Cortes was felt. Deputies were first admitted regularly to seats in the Cortes of Castile in 1188, under Alphonso IX., having before been summoned once in 1169, or nearly a century before they are known to have been represented in our English parliament. It was in 1312 that the great change was made in the constitution of the towns, by Alphonso XI., which reduced the whole body of the electors of deputies in each place to the magistrates, never exceeding 24 in any town, and those chosen by the system of self-election. But, not satisfied with this security against popular interference, the Crown made repeated attempts at obtaining the direct nomination of the deputies. In the reign of John II.,

early in the 15th century, a law was passed against corruption and undue influence at elections, and especially against the interference of the crown, the nobility, and persons in office. In the succeeding reign of Henry IV. in 1462, the Cortes of Toledo, and in 1465 those of Salamanca, required a confirmation and enforcement of the law of John II. When Henry IV. and his subjects came to an open quarrel in 1465, and their differences were referred to four persons, two named by the King and two by the nobles, to act as arbitrators, with power to name an umpire, an award was made called the "*Arbitral sentence of Medina del Campo;*" it recites the practice which had prevailed of persons who wished to sit as deputies without being elected obtaining patents (or *cedulas*) from the King, and it prohibits this on pain of being for ever ineligible to the Cortes. In Arragon the two estates (branches or arms) of nobles did not exceed in number 15 for the barons and 30 for the hidalgos at the beginning of the 15th century, while the town deputies were very numerous, Saragossa having 10 and none of the others less than 4; but it was only a few of the larger towns that were represented: they sent deputies earlier than any other towns in the Peninsula, for we find them represented in 1133. The estates sat separately, having at first obtained leave to do so, as our two houses appear, by the Parliament Rolls, to have done. The Cortes of Portugal date from the year 1140, when Alphonso I. assumed the title of King, as successor to Henry of Burgundy; and, after a victory over the Saracens, called together a national assembly to confirm his title against the King of Castile, who wished to revoke the grant of Portugal made by his predecessor. But the Portuguese Cortes were always holden with much less regularity, and enjoyed far fewer rights, than that of the other Peninsular kingdoms. The right of assembling the Cortes in those kingdoms belonged generally speaking to the Crown; but if the King was incapable, or left an infant heir without naming a guardian, it was admitted by the Crown that the Cortes might assemble themselves. When the King refused to assemble them the Council of Castile sometimes did; and an instance of this occurred as late as 1506. Both in Castile and Arragon a permanent committee, of four members in the former and an uncertain number in the latter, but some from each branch, was appointed by the Cortes to meet during

the periods of adjournment to watch over the execution of the laws. In Castile these committees were authorised to attend the Council, and in Arragon they had the immediate superintendence of the revenue and expenditure while the Cortes were not sitting.

The general functions of the Cortes in these different monarchies were nearly the same. The fundamental right, from which all the others followed, was that of alone imposing taxes, and directing the distribution and expenditure of the revenue raised. That such was the ground of their whole privileges they appear to have been fully sensible: "Once infringe upon this," says the remonstrance of the Cortes of Castile, in 1420, to John II., "and all the other liberties of the subject become an illusion." As early as 1205, Peter II. of Arragon having imposed a general tax upon the country, the nobles and people united to resist it; and the Cortes afterwards granted it, but in some part only. The Cortes in the reign of John I. positively refused to grant money to the Crown. At those of Medina del Campo, in 1328, (not many years after our famous statute of Edward I. to the like effect,*) a law was made prohibiting any impost being laid upon the towns without the consent of their deputies (or *procuradores*) in Cortes assembled; a law which, though constantly violated, was suffered to continue in the general code of Spanish jurisprudence (the *Recopilacion*) till the very eve of the French invasion, when it was abrogated by the weak tyrant who then governed and ruined the country. That they interfered with the expenditure of the revenue is equally certain. A representation remains of the Cortes of Castile to Alphonso X., in 1258, in which they state that they consider the sum "of 150 marvedies (or 11*d.* per diem, equal to about 18*s.* at this day) quite sufficient for the maintenance of him and his wife, and that he ought to recommend to his suite to eat more moderately." We have also the answer of John II. to their remonstrances in 1420, in which he states that he has ordered his ministers to lay before the Cortes accounts of all expenses and of the equipment and manning of the fleet; and distinctly promises never, on any account or in any circumstances, to levy money without their previous consent, which, he says, had been always the practice of the kings his predecessors. These rights of the Cortes continued to be as-

* 34 Ed. I. st. 4, c. 1 (1305).

serted in the reign of Ferdinand, and even in that of Charles V. In 1520 the consent of the Cortes to a tax was obtained by force; and when, in 1527, the clergy and nobility refused to be taxed, the Commons replied that then they would not contribute at all.

But the Cortes possessed also the power of general legislation. Although the Crown struggled to deny this, it was, beyond all question, the right of that assembly in all the Spanish kingdoms; and, in all but Portugal, generally asserted as long as the ancient constitution remained in force; that is, until the Austrian family obtained the crown in the person of Charles V. Indeed, they exercised in earlier times even functions of an executive kind; often interfering with the administration of the government as directly as possible, and more so than the States General in France or the Parliament in England ever have done excepting in revolutionary times. They were, in the 10th and 11th centuries, consulted by the Crown upon all emergencies of the state, and particularly upon engaging in any war. At a later period grants of crown-lands were made by princes with their approbation. We have seen that they appointed commissioners to attend the King's Council while they were not themselves sitting. Although the Council itself was named by the King, the Cortes frequently assumed the right of adding some members to it, especially while he was under age. On all great emergencies in the royal family—as the vacancy of the Crown, or the want of a regent or guardian—and, still more, upon the King misconducting himself, the Cortes, as the representative of the national will, interfered and decided. Indeed, the principle of remonstrance was distinctly recognised as a part of the constitution in all the Spanish kingdoms. But it was in Arragon more especially that this was avowed and acted upon, and that the power of the Crown was strictly limited and closely watched. We have already mentioned the form of the Arragonese oath or promise of allegiance, which limits it only to the good behaviour of the King, and asserts the right of union against him in the event of his violating his duty. The oath of allegiance was, in the strictest sense of the word, qualified or conditional:—"We," said the barons, "who are each of us as good as you, and who are all together more powerful than you, promise obedience if you maintain our rights and liberties; but if not, not." The constitution recognised the right of the barons to assemble, together

with the magistrates of the towns, in case the Crown encroached upon their liberties, and to demand redress: upon its being refused, or upon the King arming against them, they were enabled to throw off their allegiance, and transfer it to another sovereign. This *Privilege of Union*, as it was termed, was frequently exercised and repeatedly confirmed by the Crown. The last confirmation was in 1347. Peter IV., on his usurpation, having defeated the barons, abolished the law the year after. But the place of Justiciary (*Justizia*, or *Justizia Mayor*), whose office it was to stand between the people and the arbitrary power of the King, and who had the right to prohibit the illegal acts of the Crown from being obeyed, was from that time made an office for life, and only responsible to a tribunal chiefly constituted by the Cortes. Upon one remarkable occasion, 1412, the contested succession to the Crown was decided solemnly, and upon a full hearing of the three competitors, by a board of three members from the Cortes of each of the three Arragonese states,—Arragon, Catalonia, and Valencia; and they, by a majority of six to three, placed Ferdinand of Castile upon the throne. The jealousy with which the Cortes of Arragon watched over their privileges may be seen in a trivial matter. By the law, no foreigner could enter the hall of the Cortes; and when Ferdinand had appointed Queen Isabella regent in his absence during one of his campaigns, the law also requiring the regent to take an oath in presence of the Cortes, a law was passed, authorising the porter to open the doors to admit her, she being a foreigner, a native of Castile.

Martel, chronista of Arragon, mentions, as a peculiarity in the constitution of that kingdom, that, whereas in the other kingdoms of Spain no redress was to be had against the illegal acts or excesses of the King or his ministers except by the way of *suplica* or petition, in Arragon the person aggrieved could proceed *par justicia, haciendo processo dello, como entre partes, para que alli sea juzgado por los proprios del reyno*—(by a court of law, making a suit of it as between party and party, in order that there it might be tried by the natives of the kingdom).—It is singular that Arragon should have possessed two such valuable civil privileges, now confined to England; namely, an effective Habeas Corpus by means of the Justizia Mayor, and a right of civil action against the ministers and officers of Government for official acts in which there was injustice or illegality.

That a body so powerful as the Cortes of Arragon should occasionally extend its privileges beyond the law, or assert and exercise them upon doubtful questions, is natural, and might well be expected. Accordingly in 1268 they demanded the right to appoint the members of the King's council, and even the officers of his household; and this they obtained and enjoyed for some time. They more than once named officers to troops raised by them for the public service; and in 1503 they passed a law authorising the King to name them, indicating thereby the opinion which they entertained of their own prerogative in this respect, but also showing when they obtained the King's assent that it had some foundation. The rights of the people and the Cortes in general, and the functions of the Justiciary, were established by a declaratory law, which Peter III. granted in 1283, and which has been termed the *Magna Charta* of Arragon. This law also provided for the right of union, which was afterwards abolished in 1348, and for the Cortes being holden once a-year. Valencia had the privilege of union, which Peter IV. also abolished there, giving it a Justizia, like the other kingdoms. A judge continued ever after in Valencia, called *Juez de Contenciones*, and derived from the ancient Justizia.

The resistance to wicked princes was not confined to Arragon itself. Catalonia practised it by dethroning John II. in 1462; and the Cortes of Castile, by a solemn proceeding, deposed Henry IV. three years later.

The benefits derived to Arragon from its free constitution need hardly be detailed. Among the most remarkable were the early abolition of torture in judicial proceedings, first in 1278, and by confirmation of that law in 1335. Another long and successful resistance was made to the introduction of the Inquisition, against which, in 1485, the people rose and killed the chief Inquisitor. A noble love of independence was another result of their government. "We have ever understood of old time," say the Cortes in 1451, "that, considering the great barrenness of this land and the poverty of the realm, if it were not for its liberties the folk would go forth of it to abide and dwell in other countries which be of more fruitfulness." We must, however, never forget that here, as in other feudal countries, the bulk of the people were oppressed by the barons. The revolt of the villeins had, in the 14th century, obtained them some remission of their

sufferings, by placing their rights and duties on a more certain footing. But they were, as well as the free inhabitants of the country, under the jurisdiction of the lords of the soil, and had only an appeal to the King's judges in capital cases.

In fact, in all the Spanish kingdoms the influence of the nobility and priests was originally predominant, even when they were not called to sit in the Cortes. They formed the council of the King, in which all ordinary affairs were transacted. They most commonly sat in the Cortes; they held all offices of trust, and they were wholly exempt from taxes. Until the Crown had subdued them, partly by force and partly by the aid of the towns, they were the main check upon its power; afterwards they became its allies against the people. This course of encroachment was begun by Ferdinand at the latter end of the 15th and beginning of the 16th century. It was completed by his grandson, Charles I. of Spain and V. of Germany, whose extensive German and Italian dominions, and large revenues derived from the territories of America, now become productive, enabled him to overthrow entirely the ancient constitution. Force was first used to obtain supplies from the Cortes of Castile in 1520. This gave rise to a civil war, in which the Crown was successful.* In 1539, money being wanted for the Emperor's wars, he called the Cortes together again; but he found so steady a resistance to his demands from the nobles, that he dismissed them in a passion. From that time the clergy and nobles were never summoned, and the 40 or 50 deputies of the 22 towns alone were ever called upon to attend the meetings. These, chosen by self-elected municipalities, and not representing the people, fell under the absolute control of the Crown. In 1555, after the King had been making and repealing laws at his sole pleasure, they made bold to remonstrate, and require that no legislative proceeding should be had without their concurrence; but the answer showed at once that their privileges had ceased to exist, and that they no longer inspired either respect or apprehension. "To

* It might be mentioned as a signal instance of what rarely happens,—retributive justice falling on the person really guilty of the offence,—that the leader of the nobles in their opposition to the Crown in 1539 was the Duke of Frias, who had defeated Padilla, and by his victory enslaved the Commons. The dismissal of the nobles, when they persisted in refusing the tax proposed by the Emperor, was sufficiently contemptuous. They were told to go home, every one to his own house, and stay there till they were sent for again.

this," said the tyrant, "we make answer, that we shall do as best suits our government." Even such vain remonstrances did not continue much longer to be made; the last was in 1619. The ancient liberties of the Arragonese were invaded by Philip II., who restricted the power of the Justiciary; and full scope was given to the Inquisition,—that great engine of oppression by which the Spanish tyrants have ever supported themselves. The Cortes continued, however, upon its former footing as to the members composing it, though its most important rights were rarely exercised. It was allowed to present petitions on matters of trade, agriculture, taxes, and other branches of internal administration, and received answers from the Crown as before; but, though new taxes were not imposed without its consent, the powers of government in the Crown were little restrained by its interference. It was not, however, till the beginning of the 18th century that Arragon lost its liberties. In 1713 the Cortes were convoked for the last time as a legislative body, when Philip V. wished to introduce a qualified Salic Law respecting female succession to the Crown. Since that time the Cortes of Arragon, like those of Catalonia, Valencia, and Castile, have met occasionally, but only as matter of form, and chiefly when the sovereign dies, or desires to have the oaths of allegiance taken to his successor during his life; at once the feeble remains, the faint shadow of the original right of election and of the general administrative and legislative functions of the Spanish Assemblies.*

The rights of the Portuguese Cortes were always much less extensive, less defined, and less frequently exercised than those of any other legislative body in the Peninsula. They had much fewer deputies from the towns than the Cortes of the Spanish kingdoms, and were much less regularly established. They were however, of an early date. In 1143, the three estates, Clergy, Nobles, and Deputies of Towns, met at Lamego, and confirmed Alphonso I.'s title to the Crown, which his army had bestowed upon him after his victory over the Moors at the battle of Ourique, in 1139. In 1181 the same body made the law

* Thirty-seven cities and towns sent deputies to the Cortes which met at Madrid in 1789 to swear allegiance to Ferdinand VII. as heir apparent; viz. 21 from Castile and the provinces connected with its Crown; and 16 from the provinces of Arragon, which had that nominal privilege granted to them when their ancient constitutions were abrogated by Philip V.

called the *Constitution of Lamego,* which settled the succession to the Crown, making it hereditary in the direct line, but only by consent of the States in the collateral. In default of male issue, the eldest daughter was to succeed; but if she married a foreigner she was to forfeit the Crown, as happened towards the end of the 14th century to Beatrice, on her marriage with the King of Castile. The Royal authority was never so much restrained by the States in Portugal as in the other feudal kingdoms. The Crown early acquired such power over the body that it was seldom convoked unless to sanction some infraction of the law and the constitution. But, after the Crown had been absolute during its union with Spain, the Portuguese Cortes met to better purpose on the revolt against Spain in 1640,* when the Braganza family, descended through a female from the Burgundian Princes, were raised to the throne,—an arrangement sanctioned by the Cortes;—and subsequently when Alphonso VI., the son of the first of those kings, having disgusted all classes by his vices and his oppressions, was dethroned by some members of his family and of his court, the Cortes gave their sanction to his abdication. After 1697 they did not meet at all until the troubles originating in the French invasion. The revolution of 1640 only gave the country a new set of tyrants under another name.

The constitutions given by France to Spain in 1808, and by the Convention assembled in Portugal in 1817, need not detain us long. The former resembled closely the one given to Naples, of which we have already spoken, and of which the chief characteristic is an assembly chosen in great part by the Crown, and deliberating with doors so closed that it is treason to publish their proceedings. The latter ran into the opposite extreme of universal suffrage, vote by ballot, Parliaments for two years, and no Upper House. The former of these constitutions lasted only while the family of Napoleon were in Spain; the latter can hardly be said ever to have been put in operation. It would be premature to speak upon the new constitutions given to the kingdoms of the Peninsula under the restored rights of the people; they are of the kind which belongs to the next head of our subject—Limited Monarchy.

* In 1496 they revised the pension-list; in 1385 they elected a king. Their power seems to have been considerable down to the union with Spain.

In surveying the monarchies of the Peninsula we have only seen the same history renewed which we had before been contemplating in other parts of Europe,—of popular rights lost, and limited governments converted into absolute; but we have seen this process taking place in a more striking manner, because the former constitutions were more fixed and more free here than elsewhere. The power of the Crown was restrained within more narrow limits, and the exercise of a controlling authority by the nation —or at least by the greater, and in those days more important, portion of the nation, the nobles and the towns—was more regular, and indeed constant. In Castile, and still more in Arragon, the government was quite as free as our own in England, and had attained its form at an earlier period, though that of Castile was not so systematically framed according to fixed rules. That those countries should have lost this invaluable blessing while we have preserved and improved it, is one of the most striking passages of history,—one of the most singular phenomena in what we have termed the science of comparative anatomy in politics—that science which teaches the internal structures of different governments, shows the adaptation or the unfitness of their parts to perform the functions intended for each, and contrasts the various systems one with another. We shall be better able to trace the causes of this singular fact, as well as to derive from meditating upon it the lessons which it is so well calculated to convey, when we shall have examined the progress and the structure of our own constitution. Yet it is impossible not to pause for a moment at present, and mark, *first*, the principal circumstances which have produced so opposite an event in the two countries; and, *secondly*, the principal inferences of a practical kind to which a consideration of the diversity leads.

1. The extensive foreign dominions of the Austrian family, and especially the acquisition of territory in South America, though (according to the doctrine already expounded, chap. xvi.) it greatly helped Philip II. in his inroads upon the constitution of Arragon, cannot be assigned as the sole cause of tyranny having prevailed in Spain, inasmuch as Ferdinand had begun his encroachments upon the Arragonese barons before the German connexion, and Charles had completed the ascendant of the Crown in Castile before the American revenue became considerable. The vast extent of territory which lies in the middle

and north of Spain with few towns of any importance undoubtedly gave the Crown and the barons advantages in the contest. The care which Ximenes had taken to increase the regular forces of the Crown was a further advantage on the side of the King; though he had in opposing the barons also disciplined the militia of the towns, and thus may be said to have given the Crown little benefit against these upon the balance. But the main cause of the people's defeat must be sought in the division of the country among different monarchies with various forms of government, whereby the Crown could always press upon the people of each with the force of all the rest; to which must be added the disunion among the great towns of each, arising from the jealousies incident to commercial occupations. This division it was that enabled the Crown to subdue the provinces one after the other; and this division it was that crippled the exertions of the Commons in their own cause. The same course was pursued by Ferdinand, and still more by Cardinal Ximenes, the regent during Charles V.'s absence after his accession, which the Kings in other countries had followed. The first attempt was to weaken the nobles by raising the towns; and then the jealousy of the former was excited against the latter. Ximenes had courted the towns by repealing taxes and by revoking many improvident grants of crown-lands to the nobles. Charles V., having quarrelled with that body, at first took the part of the towns, and enabled those of Valencia to form an opposition which had for its immediate object the reduction of the feudal privileges. When this extended to Castile, and when all its towns had united to form the Holy Junta, although the first grievances complained of were the influence of foreigners over the sovereign, and his having at the Cortes of Gallicia in 1520 obtained by force and by intrigue the grant of supplies from an assembly illegally holden, yet the principal complaints in the celebrated Remonstrance—which may be compared to our Petition of Right a hundred years after—related to the privileges of the nobles, whom the Commons desired to strip of their exemptions, of all governments of towns, and all recent grants of land. This at once ranged the nobles on the side of the Crown; indeed the Union or Junta was less hostile to the King than to the lords, and in the course of the war repeatedly held out offers of joining the former against those whom they regarded as the common enemy. This, it must be

confessed, was a capital error of the insurgents; their claims ought in common prudence to have been either against the Crown or against the nobles, and not against both together. A junction of their adversaries was thus effected, which, added to the want of union among themselves, proved fatal. The Junta was defeated after about a year's struggle in Castile, and the *Germanada*—a similar association, but under inferior leaders, and guilty of greater excesses because not supported by many respectable persons—yielded in the course of the next year. When in 1539 Charles V. finally overpowered the Cortes of Castile by dismissing the clergy and nobles from it and confining its members to the deputies of a few towns, the different classes of the community found it was too late for either the nobles to claim the assistance of the people, whom they had eighteen years before helped the Crown to subdue, or for the people, now become insignificant, to combine with the lords. The Emperor refused the request which both made to have a conference on the proposition of supply being submitted to them; and as neither body could resist him, though he did not obtain the grant, he destroyed the constitution of the Cortes, and continued to govern ever after as if the national assembly were a matter of mere form.

2. It is manifest from the sad history of the Spanish constitution to what hazards all free Governments are exposed when the people rest satisfied with charters, and laws, and usages, and neglect the only means of making the possession of their rights secure. The Crown in all countries must be armed with executive power, even where it is most limited by law; where, as in all modern states, it has a standing army besides, no laws can prove a safeguard unless the people be perpetually on the watch. The difference is prodigious between the two parties to the struggle which is, and ever must be, going on. The one is always awake; always seeking its own advancement, and ready to take every occasion that may offer for furthering this single and constant object. The other is apt to slumber, and, though sometimes unreasonably suspicious, is generally prone to confidence; nay, a fit of groundless jealousy often leads to an alternating supineness when there is most reason for vigilance and distrust. The one is single—united—undivided, as well in council as in action; the other is apt to be distracted in both:

above all, to be divided in opinion, and even to have within its bosom allies of the adverse interest. The one is never known to be the dupe of designing enemies, being endowed by education with a sense of its danger and its advantages that amounts to acquired instinct, and may well be likened to a second nature. The other is too often the sport of hollow friends, the dupe of concealed adversaries; too often suffers its good feelings to be played upon, and its bad to become its ruin; too often prefers its enemies to its friends, and lays a pitfall for its own feet in the moment of success; and too often, in times of disaster, abandons that hope which no single person ever loses, and which frequently restores, almost incredibly, the most desperate fortunes. While Kings are, by the atmosphere of falsehood which they breathe all their lives, trained to all the skill required for self-defence, the people seem to become more credulous in proportion to their long experience of imposition; and while princes seldom fail to discover and to reward their real supporters, the men who devote themselves to the work of tyranny—maltreating or neglecting honest men alone, as suspecting them of being the people's servants rather than their own—the people will turn upon their own most faithful friends on a momentary discontent, or neglect them upon the appearance of new favourites. So that, while the Court never wants strong and steady tools, the country is frequently left without able and respectable supporters. These faults or failings give the Crown a fearful advantage in the game which it is ever playing; and they are only to be corrected by political education, by constant discussion, by much and honest meditation upon our rights and our duties:—above all, by resolving to think for ourselves, and let no man take upon him the office of forming our opinions for us.

But it is above everything necessary, and it is the first and highest inference to be drawn from such histories as we have been contemplating, that no ear ever must be lent to him who would persuade us to reckon the least encroachment of power as of little account. The smallest encroachment is, from its consequences, incalculably great—the least loss of liberty is a stride to slavery. Every acquisition of undue power both whets the appetite of him who is suffered to make it, and enables him, as well as encourages him, to go forward. Every loss of right lessens the abhorrence of total subjugation, and enfeebles both the spirit

and the means of future resistance. If, during the 15th century, the Castilians had not allowed the number of towns summoned by the Crown to be gradually diminished until only 17* sent deputies to the Cortes, the King durst never have transferred the holding of that assembly to the extremity of Gallicia, and the resistance of 1521 would never have been rendered necessary; at least, a resistance against both Crown and nobles at once; or, if it had, better success would have attended it.—So no part of a monarchy can ever be regarded as insulated from the rest. An inroad upon the rights of one portion is an attack upon all. Nor can subjects of the same State ever ally themselves more closely with tyranny than by meanly suffering any one class of their fellow-citizens to be oppressed,—however remote in position —however limited in importance. The cause of freedom is essentially a common cause, and its adversary is a common enemy. If the Arragonese had not taken counsel of their bad feelings and stood by Charles V. in his war with the Castilian Junta, worked upon no doubt by mere false and hollow advisers, who told them that it was the affair of others, not theirs—that their rights were safe—that all the attacks on their privileges had been insignificant—their rights never would have been invaded by Philip II., or, if attacked, they would, with the help of the Castilians, have subdued that detestable tyrant.

Nor let it be thought that these are vague and general positions of no practical application. It results from them that the people of this country are bound by a regard for their own freedom to oppose every attack upon that of their fellow-subjects in Scotland or in Ireland, or in Canada, as much as if they were a direct invasion of Magna Charta or the Bill of Rights; and that the greatest cities in the empire have the same interest in watching over the liberties of every small corporate town as if Manchester, or Liverpool, or Birmingham, or Quebec, were

* Mariana says the number of cities and towns that sent deputies to the Cortes was in his time 18: three had been added before the grant of the Millones in 1649 settled and restricted the number in future;—i. e. Palencia, in Old Castile; seven towns in Gallicia, having among them one vote; and two cities in Estremadura, having between them one vote;—making 21 votes in all; to which were added by Philip V. 16 votes from the Arragonese provinces—viz. seven from Arragon, two from Valencia, one from Tarragona, and six from the rest of Catalonia. Before the constitutions of the kingdoms of Arragon were abolished, 26 cities and towns had voices in the Cortes of Arragon, 24 in the Cortes of Catalonia, and 33 in the Cortes of Valencia.

sought to be despoiled. Tyranny always begins with a single victim—always singles out a weak one. So, too, it follows that every honest and respectable member of the community is directly interested in defending liberty when violated in the person of the most unworthy wretch within its boundaries. Tyranny always selects for the subject of its infractions of the law some base person, because he is most likely to be friendless. There is not a wretch who pours forth the foul venom of his slanders through the press that does not become as much entitled to the protection of the wise and good as if one of themselves were the object of persecution, the instant that a violation of the constitution is attempted in his person. His cause from that moment becomes the cause of a free press, in general—even of that free press which his crimes have been tending to pollute and to degrade; and the most dangerous and inconsistent of all the pretended friends of liberty is he who would palliate his disregard of oppressive proceedings in such a case, still more his support of laws adverse to free discussion, by referring to the licence with which bad men have abused it.

Further,—it behoves the people carefully to guard against those who would persuade them that they are quite secure in the forms of the established constitution. There are no worse enemies of liberty—no more useful allies of usurpation. See how fair to behold was the Government of Castile a few years before it was destroyed; how much fairer still the Constitution of Arragon on the eve of the storms that swept its bulwarks away! But that the Cortes was not so regularly assembled as our Parliament, there was everything which our ancestors possessed at a later period, and some defences against tyranny even stronger than ever we enjoyed. The Spaniards deemed themselves safe, and they neglected the watchfulness in little things which is the soul of free institutions,—the life that animates them and alone makes them secure against decay. What followed? Were they ignorant of their rights, or unacquainted with those things which belonged to liberty? So far from it, that their famous Remonstrance of 1521 contained every one particular of good and free government which men can desire —everything which we ourselves have ever obtained or now possess; and, among others, free elections, municipal reform, pension and place bill, equal rights of all citizens, ecclesiastical

reform, triennial bill, exclusion of foreigners, restrictions of army, abolition of useless offices, judicial reform,—and almost all these demands were of rights formerly enjoyed by the people. But that people had slumbered over those rights. Having allowed them to be gradually invaded it was too late to claim them; and three centuries of absolute monarchy have been the lot of Spain.

Again, we are not dealing in generalities. If the people of England suffer themselves to be deluded with the notion that they have gained a popular Parliamentary Constitution, and may therefore now be at rest, the lot of Spain may soon enough be theirs. The abuses which yet prevail in part of our system may corrupt the purity of the reformed legislature; or any want of vigilance in choosing the men who are to compose it, or in observing the statesmen who are to administer it, may destroy the fabric even to its outward appearance by repealing the letter of the law.

It is another reflection suggested by the loss of liberty in Spain, that nothing is more perilous than occasional legislation upon constitutional matters, and making laws which permanently affect the rights of the people, for the purpose of meeting a temporary difficulty. Nor can the people commit a greater crime against their country than by assenting to the surrender of their own rights for the sake of injuring a portion of their fellow-subjects. It is next thing to this if they allow the Crown to oppress that portion of the community. In truth, this conduct on the part of the Castilians may be said to have been the proximate cause of their ruin. With us there is not much chance in these times of the Crown purchasing the people's support or connivance by attacking the clergy or the aristocracy; for these two powerful bodies are generally in close league with the Court. But other times may come when it will be well to reflect that, as long as there is a standing army and a large patronage at the disposal of one person in the state, that person's proceedings must ever be the object of the most jealous scrutiny, and his encroachments upon any order whatever of his subjects the ground of just alarm.

A disposition to court the people by concessions may often be sincere on the part of their rulers, whether princes or ministers; but it behoves us to be always on our guard against being de-

ceived by such gifts, and never to be seduced by them into any abandonment of our rights, or any blind confidence in our governors. We may receive the boon, if it can be so termed; but we must give up nothing for it. The people are to be ruled and well ruled, and as well ruled as possible; that is their right, that is the duty of the governors. In return for the governors performing their duty the people have no cause to give anything whatever. Obedience is all that can be asked in return for the best of governments. Cardinal Ximenes began his attacks upon the Constitution of Castile with popular measures; among the rest, the reduction of the alcavala, a hateful and impolitic tax upon all sales, even of goods in the market: he ended by crushing the nobility, which his popularity enabled him to effect; and the people ultimately lost their Constitution through these means, and through the similar policy of Ferdinand and afterwards of Charles, one of the first acts of whose reign was to authorise the *Germanada* of the Valencians, and actually to encourage their revolt. In this country there prevails a disposition to show gratitude to the Government as often as any concession is made to the people of something which is their unquestionable right. Nay, a preposterous kind of compromise is often made, and, because we have obtained one thing to which we were clearly entitled, our delegates agree to abstain from insisting upon something else to which our title is equally unimpeachable and plain. Once for all, it should be remembered, and for ever borne in mind, that the right of the people is indefeasible to the best and the cheapest government which can be given; and that to express any gratitude for even that best and cheapest government, much more to return thanks for anything short of it, would be like a creditor testifying his thankfulness to one who paid him 5*s.* in the pound. No man would advise a client to receive such an instalment with a grateful acknowledgment, lest it might appear against him in evidence when he claimed the residue, and show that he had received not payment, but a gift. As for the folly of those who not only give thanks for the instalment, but, surprised at getting anything, give up their claim to the rest,—this is a conduct which a generous creditor may hold, or a prudent creditor to a hopeless insolvent; but it is beyond the right of the people, and still more of the people's representatives.

By keeping these maxims always in view, and by acting stea-

dily upon them, the people of this country may be secure, because they will secure themselves, against the loss of their liberties. By neglecting them, and reposing in fancied security on their Constitution, they will be sure to lose them. The French, in 1830, were on the point of being enslaved, with a representative constitution and a free press, because they had a king with a standing army to help him in destroying both. Nothing but the unconquerable spirit of that gallant nation and the unexampled rashness of their enemies saved them. Tyranny would have come armed with far greater terrors to the reflecting mind had it approached with its accustomed quiet foot and gentle pace. Five years, however, had not passed before new encroachments on liberty were attempted by the pernicious method of occasional legislation to which we have adverted. Let us hope, as all good men and good Englishmen must fervently hope, that whatever storms still threaten the liberties and the peace of France may also pass away.

Of these truths we have already had illustrations at every step of our progress in tracing the history of Absolute Monarchy. The little that remains of this branch of our subject will afford additional illustrations; but it seemed fitting to offer those remarks rather upon the Spanish than the Scandinavian Monarchies, because in some important respects the ancient state of the former more nearly resembled our own.

CHAPTER XX.

DANISH AND SWEDISH MONARCHIES.

Scandinavian History—Early Danish Constitution—Union of Calmar—Encroachments of the Crown—Tyranny of Christian II.—Separation of Sweden—Aristocracy—Revolution of 1661—Act establishing despotism—Mild and wise reign of Frederick III.—Of his successors—Queen Matilda's reforms—Struensee and Brandt—Mob joins the Court to destroy the reformers—Bernstoff's reforms—Swedish Constitution—Aristocracy—Revolution of 1772—New Constitution—Gustavus III.—Further increase of Royal authority, 1776—Evils introduced by despotism—Gustavus IV. dethroned—New Constitution, 1809.

THE government in Denmark and Sweden was originally, like that of all the other feudal countries, a monarchy extremely limited, in which the King succeeded by election, the Crown remaining generally in the same family, though with occasional exceptions. In Norway a similar government prevailed, although the feudal system never was established in that country. It was united to Denmark first by Canute, King of England and Denmark, about the year 1028, and afterwards by Margaret in 1385; and it was inhabited by the same people.

We shall begin by considering the Danish Government. In the 9th century Harold I., who was converted to Christianity, may be said to have been the first King of the country. In the course of that century the Danes first overran the coasts of France and England in piratical expeditions, retiring with their spoil; and afterwards, on acquiring a footing in both countries, they made a permanent settlement. In France—which they invaded under their general name of Normans, or Northern men—they founded, by the compulsory consent of Charles the Simple, the Dukedom of Normandy at the beginning of the 10th century; and they had actually conquered almost all England the century preceding, when Alfred expelled them from the south, and forced them to settle in the northern and midland counties. In the 11th century they again invaded this country, and governed it

for above twenty years, Canute* and Hardicanute being Kings both of England, Denmark, and Norway. The Danish government was in those times substantially in the hands of the Senate and the States, the executive power being administered by the former, the legislative by the latter. The Senate was named by the Crown, but out of the nobility; and certain great officers of state had seats in it officially, the King presiding. In all such matters as did not require the Senate's concurrence, the King was bound to follow the advice of the four great officers of the Crown while the States were not sitting. The States, consisting of the nobles, clergy, and burgesses (or deputies of towns), were to meet yearly; and they not only had the whole legislative power, but also that of making peace and war and alliances; they superintended the royal marriages, and appointed to the great offices of the kingdom. Taxes could of course only be imposed with their concurrence; but, unless on some extraordinary occasions, there were no new taxes levied, and the expenses of the Crown were defrayed by revenues of the royal domains. The King was, in fact, nothing more than commander of the forces and president of the council and of the state; the nobles had substantially the whole government in their hands; the clergy had little influence, and the people hardly any at all.

In 1397 the intrigues and abilities of Margaret of Denmark, who had obtained the Crown of Norway, added that of Sweden, at a Congress of the States of the three kingdoms at Calmar, a Swedish town. The constitutions of the three countries closely resembled each other; but it was agreed by this celebrated treaty that each should retain its constitution, its senate, and its separate laws. It was also agreed, that the general Diet of the states of all three should meet at Helmstadt—that the senators and deputies should elect the successor to the throne at each vacancy, choosing, however, in the family when any reigning prince left children—that the Court should reside four months each year in each kingdom—that the Revenues of each should be spent in it—and that the natives of each should alone be capable of holding office within its bounds.

This ambitious Princess was far from observing these articles rigidly, and farther still from allowing the government to continue as restricted as she found it in any of the three kingdoms.

* Knut and Hardiknut are the Danish names of these Princes.

She broke the treaty by employing Danes universally in the administration of the Swedish government; and she united herself with the clergy in Denmark for the purpose of depressing the nobles. These she deprived of the possession of the strong places in the country, and also of the exemption, which they had hitherto claimed, from all land-taxes. She also obtained the Senate's consent to abolish their arbitrary jurisdiction upon their estates. It is plain how great a stride she must have made towards absolute power, when we find her answering a deputation of magistrates who appealed to the charter for privileges which she had sworn to respect—"Keep your charters, and I will keep my garrisons and my prerogative." Her immediate successors lost a great part of her power; but at the beginning of the 16th century Christian II. made himself absolute, and governed with a cruelty and bloodthirstiness that have obtained for him the name of the Northern Nero. Ever since Margaret's death the union of Calmar had been more or less effectual, according to the success which different Swedish Princes had in asserting and maintaining the independence of their country; but Denmark more frequently prevailed; and Christian, in execution of a plot which he had contrived, with the approval of two of his prelates, treacherously assembling the Swedish Senate, nobles and prelates, at an entertainment in Stockholm, put to death 70 or 80 of them by the hands of the executioner, upon pretence of heresy. This and other enormities raised the people, both of Sweden and Denmark, against him. Gustavus Vasa led on the former, and by his great talents and courage succeeded in freeing his country, and raised himself, by the election of the States, to the throne, which his family retained till 1818, when General Bernadotte succeeded, having been some years before chosen to fill it, when the King, Charles XIII., should die. The Danish states met in Jutland and formally deposed the monster (Christian II.), who received this sentence through the chief justice singly, and without any force, and at once complied by abdicating. These events happened in the years 1521 and 1523. The establishment of the Reformation took place partially in 1527, and finally 10 years later, accelerated, no doubt, by Christian's conduct, and that of the Romish bishops. The tyranny of Christian brought about yet another event of importance. Norway, which like Sweden had been alternately

free and dependent on Denmark since the union of Calmar, took Christian's part, and was, after many struggles, reduced to subjection in the reign of Christian III., whom the States had chosen to succeed Frederick, the tyrant's immediate successor. A Diet was assembled, which declared the Crown of Norway formally united with that of Denmark; the Senate was abolished; the States never afterwards took any part in the election of the Sovereign; and since that time Norway continued united with Denmark, until, in 1814, it was given to Sweden by one of the most reprehensible acts of the celebrated Congress of Vienna. The Reformation, however, brought along with it this important consequence to the Danish government. Contrary to the remonstrances of Luther, the whole Church lands, and other privileges of their order, were taken from the Catholic clergy, and their property was vested in the Crown or the nobles. From this time the encroachments of the aristocracy had nothing to check them; the Senate became the ruling power in the state, no Diet having been assembled after 1536; and each successive King was, on being named by the Senate, bound by a capitulation to the maintenance, and occasionally the extension, of the privileges enjoyed by the aristocracy.

In 1660 Sweden had nearly conquered Denmark, the distractions of whose people, occasioned by the misgovernment and oppressions of the nobles, and the justifiable discontents of clergy and people, made it impossible for all the talents of Frederick III. to call forth the resources of the country, or provide effectually for its safety. The provinces on the northern side of the Baltic had been entirely overrun by the Swedes; Copenhagen was besieged, and only saved by the extraordinary exertions of the people. The peace of May, 1660, abandoned the northern Baltic provinces, which have ever since belonged to Sweden; and as the finances were in a ruinous condition, the army without pay, and the navy nearly annihilated, the necessity of assembling the States General became apparent even to the Senate. Accordingly they met, and a secret understanding immediately appeared to have been formed between the Crown and the clergy and deputies, to the exclusion of the nobility. These two orders joined in beseeching the King to take upon himself the entire control of the government, to receive the Crown as hereditary in his family, to hold the Royal authority as abso-

lute, and to make such a constitution on that basis as he might think fit. Before, however, they took this extraordinary step, there had been an open difference with the nobles. The speaker of the commons had, in their name, and with the entire concurrence of the King and the clergy, called upon the nobility to contribute their share to whatever taxes the state of the country might render necessary; and this proposition had been received with aristocratic insolence, being treated by the nobles as an invasion of their undoubted rights. Nay they scrupled not to designate the people as vassals whom the constitution had made such, and who as such should remain. It was upon this that the commons withdrew to a separate chamber, and opened a direct communication with the King, to whom they made their weak and wicked proposition of slavery, willing to be enslaved themselves in order to make their aristocratic tyrants share in their servitude. The nobles,—confounded with this proceeding, unprepared to resist the King, and surrounded by the numerous inhabitants of the capital, who all took part against them, and were flushed with their late successful defence of it against the Swedes,—after endeavouring to delay and negotiate, found they must submit, and had the meanness even to volunteer their concurrence in the surrender of the constitution, in the hopes of obtaining from their acquiescence a share of the Royal favour. The act of surrender of all the rights and liberties of all classes of the people was executed 10th January, 1661, in three parts, one for each order, signed respectively by all the senators and heads of noble families, by all the representatives of the clergy, and even by the parsons of parishes, and by all the deputies of the commons, and by the very magistrates and chief inhabitants themselves of the towns. It is probably the most disgraceful proceeding on the records of history; for it leaves the nation without the excuse of having been led away by the heat of a momentary excitement, and it also precludes the possibility of denying that the body of the people participated in the shame, or of throwing the blame on a portion only of the community.

The immediate result was what might be expected. The most absolute constitution known in the western world was framed by the King, as indeed the country had asked him to do. On the 14th November, 1665, he promulgated this to his subjects. It

declares that the King is the only supreme ruler upon earth; that he is above all human laws; that in all matters, ecclesiastical or civil, he has no superior but God; that he alone can make, alter, abrogate, and interpret the laws; and that he has the power of granting exemptions and dispensations from obeying the law to whomsoever he pleases.—After this it was hardly necessary to go farther. However, for greater security the document adds that the Sovereign has the whole power, military as well as civil; alone can name all officers and functionaries; alone can impose and raise taxes of all descriptions; alone can judge and can regulate, and even order all ecclesiastical matters and things. Though the King was allowed to regulate the succession exactly as he pleased, he only provided that it should be hereditary, pointing out the ordinary line of royal descent, —"after Divine Providence shall," says he, "have given us an eternal and heavenly crown instead of the one we now wear." And, as the royal law is not to be altered, no future King can vary the order of succession; but the King may by will dispose as he pleases of the Regency or guardianship of his infant successor. The supreme power created by the act is to be enjoyed by children of thirteen years complete. A ceremony of coronation is to be performed at each accession; but "no oath or other engagement is to be taken by the Sovereign in any manner whatever, or under any name, by word or by writing towards any person whatsoever," for the reason assigned; namely, that in his capacity of free and absolute monarch his subjects "cannot impose any oath or prescribe any condition to limit his authority." It is even especially mentioned that the having a coronation at all has nothing to do with the title, but is merely an act showing that the King acknowledges his dependence on the Supreme Being. But lest all this should not be reckoned sufficient, the 26th Article of this famous constitution states that, in case there should by possibility be anything omitted to the completeness and perfecting of the sovereign power, it shall be considered as supplied in what follows; viz.—"The King of Denmark and Norway shall be an hereditary King, and clothed with the highest power, in such wise that everything that can be said or written in favour of an absolute and hereditary Christian King shall be deemed and taken to be predicated of the King of Denmark and Norway, and in the largest sense of

the words." It then proceeds to recite the evils which have happened through acts and grants of Kings in derogation of their absolute power; warns all succeeding Kings of Denmark and Norway against such things; and declares that anything obtained from them, in ever so little a degree infringing on the absolute prerogative, shall be null and void, by whomsoever obtained, and the persons obtaining it guilty of treason. The Princes of the Blood are also exempted from all jurisdiction whatever, and their conduct is only to be examined by the King. The instrument closes with expressing a confident belief that it is so drawn up as to make the best arrangement of the constitution whereof human prudence is capable, and the most likely to avoid all inconvenience, and secure the peace and quiet of the subject; nevertheless, as even the wisest designs of men are in the hands of God, to God it recommends the royal family and the kingdom.

It was to be expected that the authority conferred on Frederick III. to make an absolute constitution would be thus exercised. It was not, perhaps, so much to be expected that he should, after being thus clothed with unlimited power, act in such a manner as to reconcile men to the yoke they had thus fashioned, through his instrumentality, for themselves. His reign was gentle and prudent; and it was prosperous. He cultivated peace, and administered the government with moderation and with justice; and his successors for a hundred years generally followed in his footsteps. But at length a Prince of weak intellect, Christian VII., having succeeded to the Crown, his wife, Queen Matilda, sister of our George III., a woman of enlarged and liberal views, promoted to the King's favour Count Struensee, a person of plebeian extraction, but of a bold and determined spirit. He obtained with the Queen an entire ascendant over Christian, and they governed in his name. The most important reforms were introduced in every department of the state; the magistracy was purified, and the close corporation of Copenhagen opened; the establishments were reduced; the taxes were abolished which pressed most upon the community; the feudal services were diminished; and the press was by one edict restored to perfect freedom. The first use which it made of this liberty was to overwhelm its liberators with every species of ribaldry and abuse. The mob of Copenhagen took the same side; the Queen Dowager, anxious to set aside the Queen Con-

sort and to place her son in the Regency, with the aid of some of the nobles whom Struensee's bold reforms had offended, seized his person and the Queen's, shut her up for life in a fortress, and had him and his coadjutor Count Brandt sentenced by a commission, and executed, without any distinct charge being brought against either. The people, worthy successors of the men who a century before voluntarily surrendered their constitution, highly applauded this act of violence committed upon those who were endeavouring to free and to save them.

It has been a most fortunate accident for the Danes that, notwithstanding their detestable constitution, a succession, first of good Kings and then of wise and liberal ministers, has greatly contributed to the improvement of their country, and indeed to the introduction of salutary reforms even in the condition of the people. The elder Bernstoff preceded Struensee, and laid the foundations of this excellent policy. His nephew was minister from 1788 to 1796. To these men is owing, among other things, the abolition of the servitude of the peasants and the cessation of slavery in the Danish West India islands. A most important blessing is likewise enjoyed by this people: they have a short and simple code of laws,—one quarto volume containing it. They have also local judges, chosen, as well as the registrars of their courts, by the landowners of each district with the royal approval. These hold their sittings weekly, and are attended by four or five assessors from the neighbourhood, whose opinion is taken, though it is not, like a verdict, binding. Courts of Appeal sit in different places, and from these there lies an appeal in the last resort to the High Court at Copenhagen. The King reviews all criminal sentences. *Courts of Reconcilement** have likewise been established of late years, and their effect was at once to cut off nearly 16,000 out of 25,000 causes before tried in the courts in the course of three years.

The ancient constitution of Sweden resembled closely that of Denmark. The Senate was originally the council of the King; it consisted of 12 of the higher nobles, who were named by

* These courts act by explaining to the suitors themselves in the first instance, and before any expense has been incurred, their true interests in the litigation, and have thus the effect of preventing desperate actions and hopeless defences by the consent of the parties, as well as of compromising many cases where there are grounds of suing or defending.

the King together with other members, and held their places for life. The States were composed of four orders,—Nobles, Clergy, Burgesses, and Peasants. The burgesses or deputies of towns leant towards the Crown, but had little weight. Those of the peasants, or the representatives of persons who held immediately of the Crown, had much more weight; but they were under the influence of the nobility. The clergy in Catholic times exercised an influence as powerful as that of the nobles, and generally joined them against both the Crown and the Commons. When Gustavus Vasa threw off the Danish yoke, he began to encourage the Lutheran Religion, and in 1544 succeeded in establishing it. Not only did this put him in possession of the ecclesiastical revenues, but the clergy thenceforth leant towards the Crown against the aristocracy. He was thus enabled to obtain from the States a law making the Crown hereditary; and he so far influenced the elections of deputies as to rule the Diet. The wars of Gustavus Adolphus naturally increased the royal authority; and the Commons with the clergy, anxious to reduce the power of the nobles, but still more the troops which he raised in his German dominions, enabled Charles XI. in 1680 to establish an absolute government almost as completely as Frederick III. had recently done in Denmark. The Senate became a mere privy council; and the States met, but only to show their obsequiousness to the Sovereign, whom they had declared to be invested with the whole legislative power.

After his son Charles XII. had exhausted the resources of the kingdom in his insane wars, during which he ruled the country with absolute power, the States upon his decease asserted their ancient right of choosing a successor; and, setting aside the nearest relation, the Duke of Holstein, to whom also Charles had bequeathed the Crown by his will, they chose Ulrica Eleanora, Charles's sister, making her swear to the observance of the ancient free constitution, with some important extensions of liberty. The Senate was to be of 12 as formerly, but chosen by the King from a list of three names presented by the States for each vacancy. He was to have a double vote, and also a casting vote in case of equality; but without its concurrence he could do no act of government. The States were to meet once in three years at least; and oftener if the Senate convoked them. All offices were filled by the Senate laying a list of persons before the

Privy Council, a body of four senators, in which the King had a voice. A secret Committee of the States revised all the determinations of the Senate. During the sitting of the States the functions of the King and the Senate were suspended, and these were bound to ratify and to execute whatever the States ordered. The States had alone the power of making peace and war; and they could remove any senator of whose conduct they disapproved. Such was the government from 1720 to 1772—an aristocratic diet and a nominal sovereign.

In 1772 Gustavus III.—who had solemnly sworn to maintain the constitution in all its purity, with a detail of asseveration hardly precedented in any other act of perjury, and with a permission added which absolved the people from their allegiance should he violate his obligation—availing himself of the two parties which existed in the Diet, of the dislike entertained by the burgesses to the nobles, and of the help of the soldiery whom he had gained over by bribes—arrested the chief leaders of the aristocratic party, assembled the States, surrounded them with troops, pointed guns towards the avenue of the hall, and obtained their signature to a constitution by which the Senate, consisting of 17, was made a mere council, unless they should be unanimous upon any diplomatic question, in which case their voice was binding. The King was to have the sole power of naming the senators, as well as all officers, civil, ecclesiastical, and military: he alone was to call the States together, and his consent, as well as theirs, to be necessary in all legislative acts. The States were by this act to have a veto upon the declaration of war; and they alone could impose new taxes: but if they refused new imposts the old were to continue; and in cases of foreign invasion he might impose taxes himself, which, if not confirmed by the States, would cease on the peace. The States were to meet only when he convoked them, and to deliberate only on what he proposed to them. They consisted of the *nobility*, or the heads of noble families; the *clergy*, or the bishops and the representatives chosen by all the beneficed clergy; the *burgesses*, or representatives chosen by the magistrates and councils of towns, who are chosen by the burgesses at large; and the *peasants*, or representatives chosen by all who themselves occupy and cultivate lands held of the Crown. The King was to name the Speaker of each of the Chambers except that of the clergy, which

had the Primate for its Speaker. The Chambers were to meet and vote separately; but in the *plenum*, or union of the whole, the four were to decide by a majority: so that three of the four only were required to decide any question. The law reckoned the nobles at from 1200 to 1500 families: but there never met above 600. The Chamber of Clergy consisted of about 80; the deputies of towns 200; and the peasants 100. The whole population is now not much more than two millions and a half, including Finland; that of Norway being about one million: the numbers must have been much less then. So that, although it could not be said that an absolute government was established by this instrument, as there had been by that of Frederick III. in Denmark the century before, it was yet manifest that the former constitution was completely overthrown, and one substituted for it which abolished the preponderance of the nobles, and gave the King in substance, if not in name, unbounded authority. Gustavus having a few months before voluntarily sworn in the most solemn manner to preserve the form of government then established, to maintain the rights and privileges of the States, never to act but by the voice of the Senators, and to regard with his highest displeasure whosoever should dare to propose any extension of his power—he closed this memorable sitting of the States, whom he had surrounded with his loaded guns, by taking off his crown, pulling a prayer-book from his pocket, and himself singing *Te Deum*, in which the members, all kneeling, joined. The new Senate being nominated, and the States assembled again, he obtained a grant of an ample revenue unlimited in point of duration, before the fears of the moment had passed away; and all holding of diets being thenceforth deemed superfluous, he dismissed them for six years. In 1776 some attempt was threatened by the nobles, and part of the army in their interest gave further trouble; and again Gustavus altered the Constitution, abolishing the Senate by an edict, without any diet, after having obtained from the three orders, without the nobles, a declaration with the force of law, whereby his power was rendered still more independent; and, among other things, the right of making peace and war was recognised in him alone.

The old constitution of Sweden was exceedingly defective; but the privileges of the aristocracy, which were by far its worst fault, were in many of their most oppressive particulars—as

their exemption from taxes, and their exclusive right to hold certain kinds of land—continued by Gustavus when, careless of the oppressed condition of the Commons, he only thought of curbing the aristocratic power as far as it interfered with his own. His increase of power was accompanied by great evils to the country: he involved it in war with Russia—he prepared to join the crusade against liberty in France—he performed the most base and pernicious frauds on the currency, which he not only debased by an over-issue of government paper, but actually changed by secret forgeries—he prided himself upon an expensive splendour wholly unsuited to the resources of the country; and, not content with introducing the despotic governments of the southern nations, he profligately attempted to import also their dissolute manners. His reign was cut short by the hand of an assassin of good family in 1792; but whether the grudge was of a political or a personal kind—whether it proceeded from the quarrel of the assassin's order, whom Gustavus had oppressed—or from some private disagreement incident to the King's manner of living—it is not easy to determine. His brother succeeded to the Regency while the son was a minor; and the son himself, from 1796 to 1809, governed with a want of capacity, an empty vanity, and a ridiculous aping of other Princes whose power he did not possess, which made men question his sanity. The distresses which his folly brought upon the country exciting a revolt in 1809, first in the army, and then in the capital, he was seized and immediately abdicated. The States were assembled, and chose for King his uncle, who had formerly been Regent; and the year after, the new King's adopted son dying without issue, they appointed Bernadotte, one of Napoleon's generals, to succeed on the death of Charles XIII., which happened in 1818.

Upon the expulsion of Gustavus IV. a new constitution was also adopted, in some material respects improving that of 1772. The administration of the government is carried on by the King in a Council of nine named by him, at which each minister attends when the affairs of his department are discussed. The King may take such steps as he pleases in all things appertaining to the executive government, but the Councillors are to enter their dissent, with reasons, in the register; and if not, they are to be held responsible as having advised the act. This register is open to the select committee appointed by the States, except

the parts of it which relate to military operations. The States meet once in five years of themselves, and deliberate on any subject as they think fit: they have the power, after previous inquiry and inspection of its registers, of removing any member of the Supreme Court of Justice, which consists of 12 named by the King, one half of whom must be nobles. No fundamental law of the constitution can be changed but by the consent of the whole four Chambers; and the change proposed at one diet must be decided at the next. The King can call an extraordinary diet if he thinks fit. It is clear that, with many great defects, this is by no means the constitution of an absolute monarchy. But on the other hand, unless the States meet more frequently, and above all, unless the Crown depends for its supplies—not merely for new taxes, but for its ordinary supplies—upon the representative body, the government never can be in any accurate sense termed a popular one, or the monarchy limited.

In 1814 Norway was added to Sweden, in order that Russia, which pretended to have been making war for the restoration of social order in France and the independence of other states—that is, their right to retain their ancient possessions—might get the important province of Finland from Sweden. A new constitution was then given to Norway, somewhat resembling the one which Sweden now has, and the details of which it is unnecessary to examine.

All the remarks that flowed from our review of the Spanish history (Chap. xix.), derive new confirmation from that of the Northern Crowns which has just been closed,—but with this consolatory reflection—that no nation in the present age of the world is likely to make any revision of its government, even in circumstances the least favourable to liberty, without rendering its institutions more popular, and restricting the power of the Prince within more narrow limits. Even Sweden, in the time of Napoleon's tyranny, and during the wars of other tyrants his adversaries, obtained a far better government than she had formerly possessed at any period of her history; and Norway, at the moment when his overthrow was giving new life to ancient despotism, received a similar advantage at the hands of the conqueror.

*** Tables of the Spanish, Portuguese, Danish, and Swedish Sovereigns will be given with Chapter xviii.

INDEX.

Abbas (Shah), abolishes the office of high priest in Persia, 122.
Absolute Monarch, evils to which an, is exposed, 109.
Absolute Monarchies, difference between, and limited, 113.
Absolute Monarchy, effects of, 140; degradation of national character, 141; corruption of justice, 142; bad administration, 143; instability of government, 144; impediment to every kind of improvement, 145; exceptional cases of this general rule, 146; how far favourable to unity of design and promptitude of council and action, *ib.*; disadvantages of such a promptitude, 147; its superiority in promptitude of action, *ib.*
Absolute Government, comparison of the advantages of an, with a popular one in war and negotiation, 148, 149; want of stability, 153; may be favourable to the refinement of manners and cultivation of fine arts, 155; unfavourable to oratory, *ib.*; estimate of the refinements under, 156; danger of admitting any of the practices or spirit of, into free states, 158.
Absolute power, influence of, on the national character in France, 458.
Absolute government in Florence, 634*; in Parma and Modena, 642*; Naples, and Sicily, 623*; in the Sardinian kingdoms and Naples, 606*.
Absolute government, establishment of, in Denmark, 635.
Abuses of free governments must not be defended by comparing them to those of other governments, 214.
Abusi (giunta degli) at Naples, 607.
Accumulation of property restrained by the laws of England and France, 495.
Achæan league, *vide* Federal league.
Accopiatori, *vide* Florence.
Adelardis, *vide* Ferrara.
Aga Mahomed, Shah of Persia, repels the invasion of Russia, 220.
Ahrimans, office of, in France, 375.
Aid, *vide* Feudal revenues.
Alani, 262, 266, 276.
Alaric, king of the Goths, 267, 305; *vide* also laws of the Visigoths.
Albizzi, *vide* Florence.
Alboin, *vide* Lombards.
Alezeco, chief of Bulgarians, 588.
Alexander VI., pope, *vide* Nepotism.
Alexander III., pope, affairs with Naples, 601.
Alexander Emperor of Russia, 206, 231.
Alexis, Zar of Muscovy, 204, 235.
Alexis, son of Peter the Great, 205.
Allegiance, 282.
Alliance, holy, real nature of the, 482.
Alompra, *vide* Birman empire.
Alphonso d'Este, *vide* Ferrara.
Alphonso I., king of Naples and Sicily, character and history of, 602.
Alphonso II., *vide* Naples.
Ammianus Marcellinus, 276, 289.
Amphictyonic council or league, 481.
Anacletus, pope, invests Roger with the kingdoms of Naples and Sicily, 395.
Ancona, history of, 584.
Angles, law of, respecting private war, 297.
Ann, Empress of Russia, 201, 213, 222.
Ann, Princess of Brunswick, regent of Russia, 206.
Annona frumentaria, olearia, prefectures of, 562.
Anziani, office of, 554, 568, 626.
Apostolica camera, or apostolical chamber, 562, 566.
Apulia, *vide* Naples.
Arragon, constitution of, 295, 613, 614; foundation of the kingdom of, 611; cortes of, conditional oath of their allegiance, 617; encroachments of the cortes of upon the royal authority, 619; office of justizia, mayor in, 618; privilege of union in, *ib.*; peculiarities of the constitution of, *ib.*; benefits derived by, from a free constitution, 619; state of villeins in, *ib.*
Arcadian league, *vide* Federal league.
Argolis, union of, 481.
Ariovist, 262.
Aristocracy, etymology of the word, 73; pure and mixed, 74; how the nature of, becomes altered, 79; first great check on the power of the crown in Europe, 338; divisions of, favourable to constitutional monarchy, 340; increase of the power of, under the successors of Charlemagne, 399; alliance of the, with the crown in France, 449.

Aristotle understood what is the true end of all governments, 89; opinion of, on the organization of a state, 90.
Armies, standing, favourable to despotism, 353; maintained in monarchies, 359.
Arracan, 131.
Asiatic colonies, league of, *vide* Federal league.
Assam, 131.
Assemblies of states, origin of, 341; feudal, *vide* Feudal assemblies.
Asylum, right of, in the Roman states, 567.
Athenian constitution, 41.
Attila, *vide* Huns.
Aulic council, 488.
Austrasia, situation and history of, 370.
Austregues, *vide* Imperial chamber.
Austrian succession in Bohemia interrupted, 516; states, constitution of the, 519; improvements made in the, by Joseph II. and Maria Theresa, 530.
Autocrat, title of the Emperor of Russia, 204.
Augustus, Emperor, policy of, in respect to the limits of the Roman empire, 261.
Ava, *vide* Birman empire.
Avignon, removal of the papal residence from Rome to, 550; effects of it on the papal government in Rome, 553.
Autharis, *vide* Lombardy.

Bacon's opinion on the divine right of monarchs, 63.
Baillagères (assemblées) in France, 430.
Bailio, office of, 595.
Bailly (office of), in France, 413.
Bajulo, *vide* Parliament of Sicily.
Balia, *vide* Florence.
Ban and arrière ban, 453.
Banishment, arbitrary, in France, 559.
Barba, della, *vide* Ancona.
Barbaric, the four, laws prevailing in the beginning of the French monarchy, 366—369.
Barberini, family of, *vide* Nepotism.
Barons, feudal, power of the, 293; right of rebellion, 294; of private war, 296; assemblies of, 299; judicial power of, 313.
Baronial jurisdiction, supplanted by that of the crown, 441.
Barony in fee, 315.
Barrow's remarks on China, 180.
Bashaw, 102.
Battle, wager of, recently abolished in England, 297.
Bavaria, constitution of, 535.
Belisarius, 268, 582.
Benches, *vide* Diet of the German empire.
Benevento, Lombard duchy, history of the, 584.
Benevolences, *vide* Feudal revenues.
Bentham's opinion on the sale of office, 418.
Bentinck, Lord William, beneficent influence of, on Sicily, 621*.
Berg and Juliers, constitution of, 534.
Bernsdorf, *vide* Denmark.
Bianchi and Neri, *vide* Florence.
Birman Empire, history of, 131; government and religion of, 132; strict distinction of ranks, 134; extraordinary respect paid to the sovereign, 136.
Biren, duke of Courland, 206.
Bishops elective in France, 376; influence of, in the same country, *ib.*; disputes about the election of, 518.
Blackstone's opinion on the right of resistance to the government, 54; opinion on other subjects, 283, 387.
Blois, ordinance of, relating to parliamentary offices, 416.
Bœotian league, *vide* Federal leagues.
Bohemia, history of, 514; form of government, 517; state of that country, 518.
Bologna, quarrels of Guelphs and Ghibellins in, 541; history of, 555.
Boniface VIII., pope, decline of the papal power since the time of, 550; dispute between, and Philip the Fair of France, 551.
Borghese family, 572, 573.
Bourbons, Spanish, established on the throne of Naples and Sicily, 605.
Boyars, dignity and origin of the, 200; abolished by Peter the Great, *ib.*; office of, 245.
Boyars, children of, minor nobles of Muscovy, *ib.*
Bow-string, manner how the, is used in Turkey, 106.
Bracci, *vide* Parliament of Sicily.
Braços, *vide* Arragon.
Braganza, family of, accession to the throne of Portugal, 632.
Brandenburg, *vide* Prussia.
Brandt, *vide* Denmark.
Brotherhood of God, 298.
Brunehault, 371, 376.
Brunswick, *vide* Ann, regent, and Ivan, Emperor of Russia.
Buddhism, religion of the Birman empire, 132; organization of the clergy of, 133; state of, in China, 176; in Japan, 191; in India, *vide* India.
Bulgarians settled in Italy, 588.
Buondelmonti, *vide* Florence.
Buon-governo, congregation of, 562.
Buonomini, *vide* Florence.
Bureaux des parties casuelles in France, 415.
Burghers, condition of, in Russia, 251.
Burgundians, 262.
Burgundy, kingdom of, 269.
Burgundian law, 368; favourable to the establishment of civil law, 404.
Burke's erroneous opinions of the rights of monarchs, 86.
Burlamacchi, *vide* Lucca.

Cachet, lettres de, 460.
Cadastre, congregation of, 563.
Cadi, office of, 101.
Cæsar, Julius, character and exploits of, 264; his account of the government of the Gauls, 98.
Calmar, union of, *vide* Denmark and Sweden.
Calmucks escape from Russia to China, 225.
Camerlengo, cardinal, office of, 560.
Canute, *vide* Denmark.
Capet, house of, genealogical table of the, 395; Hugh, usurps the crown of France, 403; royal authority under, *ib.*; probable origin of, 404.
Capitanala, origin of the appellation of, 595.
Capitoul, *vide* Echevin.
Capitulation, *vide* Germanic empire.
Cardinal secretary of state, 560.
Cardinals, origin of, 547.
Carlovingian race, genealogical table of, 394.
Carthage, constitution of, 92.
Castaldini, *vide* Tuscany.
Caste, influence of, in India, 338.
Castile, foundation of the kingdom of, 611; constitution of the Cortes of, 612, 614.
Castruccio Castracani, *vide* Lucca.
Catherine I., Empress of Russia, 205.
Catherine II., Empress of Russia, her doctrine on the government of that country, 196, 211; character of, 206; mitigates the severity of despotism by advancing civilization, 212; cruelties committed during the reign of, 213; obtains for her son Paul the duchies of Oldenburg and Delmenhorst, 223; conquests in Turkey, 224; repelled by the Persians, 226; gains advantages over the Persians, *ib.*; death, *ib.*
Champ de Mars, assemblies called, 374.
Charlemagne, history of, 378; administration of, 379; institutions of, *ib.*; of the Scabini, *ib.*; of the national assemblies, 380; of the Missi Dominici, 382; restrains the aristocracy and gives great power to the crown, 383; restrains the power of the clergy, 384; conciliates the same clergy with great advantages, and grants them the right of tithes, 385, 387; military establishments of, 389; encourages learning, 391; owed much to his predecessors, 392; character of, *ib.*; empire of, and its partition, 397; his relation to the pope, 545; *vide* also Lombards.
Charles Martel, unpopular with the clergy, 387; supposed to have the first annexed military services to the tenure of lands, 391.
Charles the Bald, elected king of France, 376; inherits that country, 399; recognises the heredity of the fiefs, 400.
Charles VII. of France, character of, 452.
Charles VIII. of France, character of, 454; invades Naples and is expelled thence, 604.
Charles of Anjou becomes king of Naples and Sicily, 601.
Charles VI., Emperor, reunites Naples with Sicily, 605.
Charles Emanuel, *vide* Sardinian kingdoms.
Chase, right or liberty of the, in France, 466.
Chenguza, *vide* Birman empire.
Childeric III., last king of the Merovingian race, 373.
Chiara, council of Santa, at Naples, 603—607.
China, extent and state of civilization of, 162; history of, 163; parental authority the principle of the government of, 165; mutual responsibility in, *ib.*; authority of the emperor and reverence paid to him, 166; imperial power limited by many circumstances, 167; public education in, *ib.*; reverence paid to learning, *ib.*; influence of Confucius in, 168; aristocracy of learning, 169; little respect paid to the descendants of the imperial family, 170; hereditary distinctions discountenanced by the laws, *ib.*; arts of printing and paper-making introduced at an early period, *ib.*; preponderance of civil over the military, *ib.*; little advance in learning notwithstanding the reverence paid to it, 171; learning confined to the works of Confucius and Mencius, and its effect on the national character, 172; attention paid to rites and customs, 173; stationary state of civilization, *ib.*; political maxims adopted by public opinion, 174; the emperor is the high-priest, 175; administration of, 177; preference given to the Tartars over the Chinese, 178; degradation of the people, *ib.*; emperor's conduct subject to censorship, 171; public opinion freely manifested, *ib.*; debased character of the nation, 180; small number of the army, *ib.*; weakness of the government, 181; people generally contented, 182; increase of the population promoted by the government, 183; circumstances favourable to the improvement of the people if the government was changed, *ib.*; education of the people insufficient and ill conducted, 184; difficulty of obtaining information on, 185; authorities on, 187.
Chivalry, origin of, 320.
Christian II., III., VII., *vide* Denmark.
Church and state, a political and not religious watch-word, 61; advocated by

the Tories, 61; Church, possessions of the, in Sicily and Naples, 614*.
Censure exists not in China, 178.
Cerchi, *vide* Florence.
Civil government, origin of, 34; law, favoured by the Visigoth and Burgundian codes, but not by the Salic and Ripuary, 404, 405.
Civilians assist the increase of the power of the crown, 442.
Cimbri invade the Roman empire, 263.
Clement VII., pope, reduces Ancona, 554.
Clement VIII., pope, reduces Perugia, 555; *vide* Nepotism.
Cleophas, *vide* Lombards.
Clergy allied with the crown and aristocracy, 355; erroneous opinion of Montesquieu on the influence of, 356; influence of the, in France, 376; power of the, restrained by Charlemagne, 384; receive many advantages of the same monarch, 385, 387; conduct of the, towards Charles Martel, 387; low state of morals of the, under Charlemagne's reign, 388; extends its influence after the death of Charlemagne, 401; great number of, in the Roman states, 569.
Clovis, history of, 370.
Clothaire II., king of Neustria, 371.
Cœur, Jaques, history of, 451.
Coin, adulteration of, by sovereigns, 449.
Coke, Lord, 284, 291.
Colletta's work quoted, 628*.
Coligny, murder of, avowed cause of the massacre of the protestants, 456.
Colleges of the empire, *vide* Empire.
Colloquium, *vide* Parliament of Naples and Sicily.
Colombier, droit de, in France, 466.
Colonies, manner in which, were planted, 36.
Comites, origin of, 278.
Commarca, district of, 560.
Commendation, 274.
Commendations, 288.
Commerce of France in the feudal times, 410.
Conclave, *vide* Election of the pope.
Conclusum, *vide* German constitution.
Confucius, 163; influence of, in China, 168; veneration paid to his memory and writings, 169; his works universally studied in China, 171, 172.
Congregations of the papal government, 562.
Conrad II. declares the fiefs hereditary, 274
Consalvi, reforms introduced by Cardinal, 567.
Consiglio Collaterale at Naples, 607.
Consuls, *vide* Echevins.
Constance, Council of, 551; peace of, *vide* Lombards.
Constitutions, survey of the, of several modern states, 93.
Constitutional monarchies, found only in the countries where feudality had been established, 329; influence of the aristocracy on the formation of, 338; influence of the towns, 340; influence of the diffusion of knowledge, 343.
Contingent, *vide* Army of the Empire.
Contract, doctrine of the original, 34; comparison with the doctrine of divine right, 39.
Contrario, *vide* Ferrara.
Copyholds, 285, 291.
Copyhold court, *vide* Feudal justice.
Corvées, services of, in France, 467.
Cortes, origin of, in Spain, 612; constitution of the, of Castile, 612, 614; constitution of the, of Arragon, 613, 614; of Spain, encroachments of the crown on the, 614; of Portugal, origin, 615; power and functions of the, in the different monarchies of the Peninsula, 616; of Arragon, *vide* Arragon; of Catalonia, depose John II., 619; of Castile, depose Henry IV., *ib.*; of Spain, decline of the, 620; of Spain, last meeting of the, 621; of Portugal, rights of the, *ib.*
Corti, *vide* Parliament of Sardinia.
Councils, ecclesiastical, influence on the affairs of state in France, 377, 401; often not to be distinguished from the national assemblies, 402.
Count, office of the, 375, 582, 581, 587.
County courts, *vide* Feudal justice.
Courland becomes a sovereign duchy, 220.
Cours prévôtales in France, 451.
Court Baron, *vide* Feudal justice.
Court leet, *vide* Feudal justice.
Court offices, origin of, 310.
Coutumes, Pays de (country under the customary law), origin of, 405.
Credenza, council of, 539.
Crown, alliance of the, with the hierarchy, 61; tendency of the, to extend its power, 353; progress of the power of the, by its alliance with the nobility, *ib.*; by doing away with the assemblies of states, 354; by the introduction of standing armies, 355; by the support of the clergy, *ib.*; Montesquieu's erroneous opinion respecting the influence of the clergy on the, 356; arbitrary proceedings of the, in monarchies, 362; power of the, diminished after the death of Charlemagne, 399; alliance of the, with the aristocracy in France, 449; in feudal governments, *vide* Feudal governments.
Crusades, origin of the, 321.
Customary law in France, 405; when reduced to writing, 406.
Customs of France, number of, 407; manner how their existence was ascertained, *ib.*; abolished only by the code of Napoleon, 408; principal works on the, *ib.*

Dairi Soma, *vide* Mikaddo.
Damios, 190.
Danes in Britain, 261.
Decius defeated by the Goths, 265.
Decurioni, *vide* Government of Naples.
Delegations, or provinces of Rome, government of, 565.
Demetrius the False, czar of Russia, 202.
Democracy, etymology of this word, 73; pure and mixed; 74, 77; how the nature of, becomes altered, 79.
Denmark, original government of, 632; Union of Norway with, *ib.*; introduction of Christian religion, *ib.*; government during the middle ages, 633; reign of Margaret and union of Calmar, *ib.*; despotism and tyranny of Christian II., 634; establishment of the Reformation, *ib.*; establishment of a despotical government, 635; mild and wise reigns of Frederick III. and his successors, 638; reforms of queen Matilda, Struensee, and Brandt, destroyed by the court and the mob, *ib.*; reforms of the Bernstorffs, 639.
Derogation, 463.
Despotism, *vide* Absolute monarchy.
Diet of the German empire, *vide* Empire of the German confederation, 500.
Divan, or Turkish council, 115.
Divan-Beggy, 122.
Divine mission or origin assumed by rulers in order to sanction their authority, 41; right of monarchs, doctrine of, comparison with that of the original contract, 39; advocated by Tories, combated by Whigs, 61; Paley's opinion on, 62; modified now more in its expression than principle, 63; Bacon's opinion on, *ib.*; Whigs popular for opposing, 63.
Dictator's office in Rome, 148.
Dominium directum, utile, *vide* Government of Naples.
Donati, *vide* Florence.
Dons gratuits, 448, 449.
Drengage, 291.
Droit écrit, Pays de, or country under the civil law, origin of, 405.
Droits honorifiques, 465; utiles, *ib.*
Dubois, Abbé, schemes of, against the parliaments, 421.
Dukes, office of, in Italy, under the Greek government, 582; under the Lombards, 584, 587.
Duties, export and import, considered illegal by Mohammedan divines, 107.
Dvoriane, Russian nobles, 245.
Dynasties frequently change in Persia, 126.

East, absolute monarchies of the, manner how the succession to the throne is regulated in the, 100; monarchs of the, cruelty of, to their relatives, 112.
Ebroin, Mayor of the Palace in France, encroaches upon the property of the church, 386.
Echevins, office of, 379.
Economists, writing of, 32.
Education, political, in what consists, 80; advantages of the, for the self-government of a nation, *ib.*
Egbert, 267.
Eginhard, historian of Charlemagne, 391, 393.
Election, indirect, of representatives, defects of, 93; of monarchs in France, 376.
Elective magistrates in Russia, 249.
Electors, of the empire, origin of, 474; number, office, and privileges of, 484.
Elector, the Great, *vide* Prussia.
Eletti, *vide* Seggi, and Government of Naples.
Elis, league of, *vide* Federal leagues.
Elizabeth, empress of Russia, elevated to the throne by a revolution, 206; nominates the duke of Holstein her successor, *ib.*; abuses during her reign, notwithstanding the mildness of her personal character, 212; takes part in the affairs in Europe, 222.
Elus, office of, in France, 468.
Emigration, the great, of nations, general remarks on, 270.
Emmanuel Philibert, *vide* Sardinian kingdoms.
Emperor of China, *vide* China.
Emperor of Russia, on what grounds the title of, was assumed, 204.
Emperors of Germany, list of the, 503.
Empire, council of the, in Russia, 235.
Empire, German, states of the, 485; diet of, *ib.*; orders, chambers, or colleges, *ib.*; princes of, *ib.*; towns of the, 486; circles of the, 488; army, *ib.*; revenues, 489.
Encyclopædia, French, or Encyclopédie Méthodique, political articles of, 32; quoted 369, 380.
England, comparison of the circumstances which acted on the power of the crown in France and, 440; opposition of, to the pretensions of the pope, 551.
Entail, law of, in different countries, 361.
Epices, *vide* Fees.
Escheat, 286.
Escouage, *vide* Scutage.
Estamientos, *vide* Arragon.
Este, family of; *vide* Ferrara and Modena.
Exarchs, office of, 582.
Executive power, nature and functions of, 68.
Exempts, Pays des, 441.
Expediency is a reason for the maintenance of an existing government, 44; is the foundation of the right of property, 49.

Fatalism, inculcated by Mohammedan religion, 104; favourable to despotism, *ib.*
Federal constitution of the German empire, 475; union or league, probable origin of, *ib.*; in ancient Italy, 476; of Bœotia, 477; of Achaia, *ib.*; of Elis, 478; of Arcadia, *ib.*; of the Greek colonies in Asia, *ib.*
Federal leagues, imperfect, of Thessalia and Œtea, 479; advantages of, *ib.*
Federal principles, difference between the, and the representative, 480.
Federal union, proper, 505; improper, or imperfect, 506; *vide* also Florence, Naples, and other Italian states; difference between the proper and the improper, 507; general principles applicable to both, 508; examples of the, of both kinds, in ancient and modern times, *ib.*; different origin, tendencies, and consequences of the two kinds of, 509; examples of this, 510.
Feodor Alexivich, czar, abolishes the genealogical privileges of the nobles of Russia, 209; introduces many reforms, 236.
Fees paid to the judges in France, 464.
Feofment, 282.
Ferdinand I., king of Naples and Sicily; character and history of, 603.
Ferdinand II., *vide* Naples and Sicily.
Ferdinand the Catholic, gets possession of Naples and Sicily, 605.
Ferrara, history of, 556.
Fetwa, 111.
Feudal system, origin of, 271; tenure of land, opinions on, of Mably, Hume, Robertson, Guizot, and Hallam, 272; becomes hereditary with time, 273; origin of the term, 274; different theories on the origin of the system, *ib.*; only a single case of, in the Roman history, 275; traces of, in the East, *ib.*; government, organization of, in the beginning, 277; gradual development, 278; barons, 279; *vide* also Barons; relation extended to various kinds of property, 281; rights and duties examined, *ib.*; conveyance, mode of, in England and Scotland, 282; allegiance, *ib.*; military duty, 283; different rights possessed by the lord, *ib.*; estates, alienation of, 284; become hereditary, 285; succession, different modes of, *ib.*; estate, cases when it returned to the lord, 286; taxes, 287; lord, different rights of the, over his vassals, *ib.*; slavery, 288; how freemen were reduced to, 290; or villenage, nature of, 291; abolished by degrees in all Europe, except in Russia, 292; crown, weak authority of the, 295; precarious military power of the, 296; legislature, origin of, 299; assemblies, *ib.*; object of the, 300; composition and various modifications of the, 301; justice, origin of, 303; system, effects on society, 304; chiefs, barbarous habits of the, 305; nobility, origin of, 306; system, importance given to landed property by the, 308; difference of power exercised over that property in, 309; preposterous notions about honours and distinctions created by the, 310; renders many offices hereditary, 311, 318; bad effect of the, on the human mind, 311; privileges, 312; penal laws, *ib.*; justice administered by the barons to the oppression of other classes, 313; legislation, power of the barons in the, 314; nobility, territorial, *ib.*; conferred afterwards without regard to land, 315; system, good and bad effects of the, 316; aristocracy an adjunct of land, 319; warlike propensities of the, *ib.*; prejudice of the, against other professions than that of arms, *ib.*; injurious to family happiness, 320; spirit produces the crusades, 321; chivalry, 323; system, principles of fidelity formed by the, 324; generates great respect for antiquity, *ib.*; declines by the rise of towns, 325; extinction of the, 328; resemblance of it in some African countries, 331; in Mexico, *ib.*; in the East, 332, 334, 335; causes why the, could not acquire the same force in the East as in the West, 336; institutions, operation of the, on the political systems of Europe, 338; despotical power never existed in the countries governed by, 340; limited power of taxation under the, 341; system prevailed longer in Sardinia than elsewhere, 612*; restraints, instances of, still remaining in Germany, 567.
Feudal laws, taxation, &c., *vide* France.
Feudal burdens in Sicily, 613*.
Feudorum libri, *vide* Feudal law.
Fiefs become hereditary in France, 400; number and power of, in the same country, 401, 409; great union of the, in France, 438; effects of it, 439; different kind of, in France, 463.
Filangieri's description of the administration of justice in Naples and Sicily, 615*.
Filmer's, Sir Robert, political theory, 38.
Finns, description of, by Tacitus, 260.
Financial system of France, *vide* France.
Florence, formation and progressive development of the government of, 626*; factions in, 628*; rise of the family of Medicis, *ib.*; usurpation of power by that family, 629*; Lorenzo Medicis, his character, government, and crimes, *ib.*; conduct of historians who wrote about him, 630*; change of government of, into a despotism, by Alessandro Me-

dicis, with the assistance of Charles V., 631*; recent history of, 633*; government of, perfectly absolute, 634*; Leopold's reign, reforms, code, and character, 639*.
Forfeiture of feudal lands, in what case, 286.
Foreign affairs of Russia, manner how the, were conducted before Peter the Great, 247; mercenaries introduced in France, 454.
Forests, charter of, 313.
Franc-archers, 451.
Franc-alleu lands, 463.
Franc fief, 466.
France, history of the monarchy of, 365; four barbaric laws, and the Roman, prevalent in, at the beginning of the monarchy, 367—370; reign of Clovis in, 370; divided into Neustria and Austrasia, *ib.*; under the rois fainéans and the mayors of the palace, 371; united into one empire by Pepin, *ib.*; aristocracy grows under the mayors of the palace, 373; national assemblies in, in the beginning of the monarchy, 374; administration of, in that time, 375; crown of, elective, 376; influence of the clergy, *ib.*; reign of Charlemagne, 378—392; separated from the other parts of Charlemagne's empire under the sons of Louis the Debonnair, 399; encroachments of baronial power, 400; of clerical ditto, 401; of the papal authority, 402; power of the crown destroyed in, 403; usurpation of Hugh Capet, *ib.*; establishment of the third race, *ib.*; change in the laws of, 404; compilation of the laws, 406; history of the local and general laws of, 407; history of the parliaments of, 412; feudal taxation in, 424; history of the general and particular states of, 425; rise of the towns in, 433; extension of the dominions and power of the crown in, 436; different circumstances of England and, 440; jurisdiction of the barons supplanted by that of the crown in, 441; reign and character of St. Louis, 442; abolition of the right of private war and of other feudal privileges, 444; power of the crown to tax in, 448; interference of the crown with the coin in, 449; alliance of the crown with the aristocracy in, *ib.*; introduction of standing armies in, 450; reign of Charles VII., 451; of Louis XI., 452; of Charles VIII. and Louis XII., 454; of Charles IX., 455; of Henry IV., 456; of Louis XIII. and Louis XIV., *ib.*; absolute government consolidated in, and its influence on the national character, 458; nobility in, 460; feudal privileges and exactions in, 463; financial system, 468; general character of the government of, before the revolution, 471; note on works upon the monarchy of, 472.
Franchise, droit de, 447.
Frankfort, council of, orders the payment of the tithes to the clergy, 385; diet of, opposes the pretensions of the pope, 552.
Franks, name of, 262; invade Gaul, 265; conquer Gaul and give their name to it, 267, 269; gradual establishment of, in the Roman empire, 369.
Fredegonde, queen of France, 376.
Frederick II. of Prussia, improperly called the Great, 151.
Frederick II., emperor, deposed by the pope, 549.
Frederick III., *vide* Denmark.
Frederick II., emperor, first of Naples and Sicily, history and institutions of, 598.
Frederician code in Prussia, 523.
French dynasty in Naples, character of the government of the, 602.
Fundamental Statute, *vide* Confederation of the Rhine.

GAILLARD'S account of Charlemagne, 393.
Galanti's works quoted, 588, 614*.
Galitzin, prince, minister of Sophia, princess of Russia, 236.
Gallus, emperor, 265.
Gastaldo, office of, 588.
Gaul invaded by Franks, 265, 267, 269.
Gauls attack the Roman empire, 263.
Gavelkind, 286.
Généralités, division of France into, 468.
Germans, ancient, description of the, by Tacitus, 259, 272, 275, 276, 279, 289; defeat Varus, 261; occupations of the, 262; invade the Roman empire, 264; description of, by Cæsar, 272, 283, 299.
Germanic nations, similarity of the customs of the, 275.
Germany, extent of, in the times of the Romans, 261.
Germanic empire, origin of the, 474; causes why the, became otherwise constituted than the French, 475; constitution of the, 482; four foundations of the, *ib.*; republican nature of the constitution of, 483; details of the constitution of the, 483—489; general remarks on the constitution of the, 489; dissolution of the, 496.
Germanic confederation, establishment of the, 498; structure of the, 499; civil functions of the, 499; military functions of the, 500; breach of the promises of the, regarding popular rights, 501; influence of the French revolution of July on the, 502.
German emperor, the last, 503.
George II., king of England, acts of de-

spotical tyranny committed by, as elector of Hanover, 532.
Ghibellins, *vide* Guelphs; generally defeated, 542; oppose the pope, *ib.*
Giannone's opinions on the history of Naples, 582, 583, 588, 590, 596; persecution of that author, 676*.
Giudici reali, *vide* Government of Naples.
Giustiziero, office of, in Naples, 594, 608.
Godoonof, Boris, czar of Russia, history of, 202.
Gondebaut publishes the Burgundian laws, 368.
Golden bull, *vide* Germanic empire.
Gonfaloniere, office of, 568; di justizia, *vide* Florence.
Government, foundation of all rational, 44; proofs of a good, 70; the same, may not be the best for countries in different circumstances, *ib.*; violent changes of, dangerous, 71; threefold division of, monarchy, aristocracy, and democracy, 73; different forms of, are often mixed together, although their mixture is sometimes only apparent, 74; two questions which are frequently raised on its fundamental principles, 90; welfare of the nation the only consideration in resisting a bad, 160.
Governor, military, civil, vice, in Russia, 255.
Goths invade the Roman empire, 265; settle in the Roman empire, 266; expelled from Italy, 268; fortunes of, in Spain, *ib.*; original settlements of, 269; seem to have had no permanent property of land, 273.
Grascia, prefecture della, 562.
Grecian leagues, *vide* Federal leagues.
Gregory VII., pope, history of, 546.
Grimwald, duke of Benevento, *vide* Lombard government.
Grotius' opinion on the Lombard laws, 590.
Guelph VII., *vide* Tuscany.
Guelphs, party opposite to Ghibellins, side with the people, 543.
Guiscard, Robert, history of, 586, 595.
Guizot's opinions quoted, 272, 274, 275, 289, 294, 369, 380.

Hallam's opinions quoted, 272, 274, 275, 369, 398, 596, 630*.
Hanseatic league, 489.
Hapsburg, Rodolph of, 474.
Harald I., *vide* Denmark.
Hardenberg, reforms introduced by, in Prussia, 526.
Hasoda, a Turkish school, 116.
Hatti-sherif, 115.
Helvetians, 263; Heineccius' researches on slavery, 289.
Henry II. of France imprisons the judges of parliament for their sentence, 456.
Henry III. of France declared by the parliament of Paris to have forfeited the throne, 456.
Henry IV., emperor, quarrel between, and pope Gregory VII., 547.
Herebannum, assembly of, 375.
Hereditary succession to the throne, how was generally established, 100; advantages and disadvantages of the, 100, 101.
Hereditary distinctions discountenanced in China, 170; office, absurdity of, 318; offices in France, 146; in Sicily, 613*; nobility, *vide* Nobility.
Heriots, 284.
Heruli, 270.
Hierarchy, alliance of the, with the crown, 61.
Hindustan, influence of castes in, 338; also *vide* India.
Hipparchos, office of, 478.
Hobbes, political theory of, 39.
Holy Alliance, influence of the, on the affairs of Germany, 502.
Homage, origin of the word, 281; manner of performing, 282.
Honorary citizens, class of, in Russia, 250
Hughes's description of the meeting of the Sicilian parliament, 620*.
Hungary, numerous nobility of, 346; abuses of the nobility of, 349.
Huns, nation of, 262, 266, 270, 272, 276, 305.

Ignorance of the people, favourable to the growth of despotism, 42.
Imaums, 117.
Immunity, charter of, 340.
Imperial chamber of Westphalia, 487; commissary, *ib.*; towns, *vide* German constitution.
Imprisonment, arbitrary, in France, 559.
India, countries comprehended under the name of, 130; religion, manners, &c., of the inhabitants of, *ib.*
Indice, office of, 564.
Infanzones, *vide* Arragon.
Innocent II., pope, invests Roger with the kingdoms of Naples and Sicily, 596.
Innocent IV., pope, affairs with Naples, 601.
Innocent VIII., pope, *vide* Nepotism.
Inquisition, resistance to the, in Arragon, 629; in Naples, 609*.
Instruction, public, in China, 167.
Intendant, office of, in France, 468.
International law, *vide* Public law.
Interregnum, long, after the death of Emperor Frederick II., 474.
Investiture, 282.
Italian monarchies, division of, 537; history of the, 538; general reflections on the, 678*; towns and commonwealths, history of the, 539; commonwealths gradually reduced to principalities, 543; leagues, *vide* Federal leagues.
Italy, Imperial dominion in, 544.

Ivan III., czar of Muscovy, throws off the yoke of the Tartars, 198; reduces the republics of Novgorod and Plescow, 199; marries a princess of Greece, 235.
Ivan Vassilovich IV., the Terrible, calls the Zemskaya-Duma, 199; barbarous character and reign of, 235.
Ivan, prince of Brunswick, emperor of Russia, barbarous treatment of, 206.

James I., king of England, doctrine of, about the divine right of kings, 60; justification of, for not entering the war of Bohemia, 516.
James II., manner in which the conduct and rights of, were considered by Whigs and Tories, 56.
Japan, defective information on, 187; extent and population of, *ib.*; sketch of the history of, and its singularity, *ib.*; women not excluded from the throne in, *ib.*; continuation of the same dynasty on the throne of, 188; spiritual character of the monarch of, *ib.*; the sovereignty of, divided in modern times between the ecclesiastical and temporal emperors, *ib.*; is divided in many principalities subject to the emperor, 189; manner in which the princes are kept in subjection by the emperor, 190; religion of, *ib.*; toleration of different sects, but persecution of Christianity in, 191; all foreigners excluded from, except the Chinese and the Dutch, *ib.*; authority of the emperor, *ib.*; code of laws, education, and national character of, 192.
Jaroitimo usurps the secular power in Japan, 188.
Jaroslav, grand duke of Russia, code of, 197; reign of, and connection with Western Europe, 234.
Jerusalem, assises de, first code of feudal laws, 406.
Jews, laws respecting, in Germany, 501.
Joseph II., emperor of Austria, reforms introduced by, 530.
Joseph Buonaparte becomes king of Naples, 605; gives a constitution to Naples, 616*; provisions of that constitution, *ib.*; it has never been executed, *ib.*; improvements made by him in Naples, 619*.
Judicial power, nature, different modes and functions of, 69.
Judicial bodies, influence on the formation of constitutional government of, 342.
Juez de Contenciones, office of, 619.
Juliers, *vide* Berg.
July, French revolution of, influence on the affairs of Germany, 502.
Justice, feudal, *vide* Feudal justice.
Justice, lit de, in France, 421.
Justice, haute, moyenne, basse, rights of, in France, 461.
Justice, courts of, in Naples, 608; administration of, in Naples and Sicily, 615*.
Justizia mayor, office of the, in Arragon, 618.

Kerim Khan, Shah of Persia, glorious reign of, 125, 126.
Khaliph, 106.
Kiev, former importance of, 234.
King, was probably not hereditary in the early stages of society, 99; importance of his office, *ib.*
Knowledge, diffusion of, influence of the, on the formation of constitutional governments, 343.
Koblay Khan, founder of the Tartar dynasty in China, 764.
Koran, limits the power of the Sultan, 103; contents and doctrines of the, *ib.*; is the basis of civil polity in Persia, 120; is differently interpreted in Persia than in Turkey, *ib.*; is the foundation of Turkish laws, 114; power which it confers on the Sultan, *ib.*; prohibits forced conversion, 115; holds all men to be equal, *ib.*
Kubo, secular emperor of Japan, 189, 190, 191.

Lacroix's work on constitutions, 31.
Lamego, cortes of, 621; constitution of, 622.
Landed property, importance of, in the feudal times, 308; undue value attached to, 319.
Laws, free, and secured at a cheap rate of expense and of subjection, are the proof of a good government, 70.
Law, civil, influence of the, on the formation of constitutional governments, 342.
Law of nations, or international, 9; *vide* also Public law.
Learning in China, 167, 169, 172.
Legate, hereditary office of, conferred by pope Urban II. on the king of Naples and Sicily, 596.
Legations, *vide* Delegations.
Legislative power constitutes the true supreme authority of the state, 68.
Leon XII., pope, enactments of, 567.
Leon, kingdom, foundation of the, 611.
Leopold, *vide* Florence.
Leovegild, *vide* Visigoths.
Leptines, council of, enactments of the 386,
Liberty, loss of, in Spain, practical lessons to be derived from it by all nations, 627.
Liski, book of Chinese rites and customs, 173,

Lincoln, parliament of, opposes the pretensions of the pope, 551.
Literary men, mean flattery of, in Italy, 554, 558; reflections on this subject, 559.
Locke's opinion on political principles, 34, 37.
Lods et Ventes, dues called, 466.
Lombards, origin of the, and conquests in Italy, 268, 583; duchies in Italy, 583; anarchy during ten years, 584; Autharis real founder of the monarchy of the, *ib.*; duchy of Benevento, *ib.*; conquered by Pepin and Charlemagne, 585; by the Normans in the duchy of Benevento, 586; system of government, *ib.*; modified feudal system in the government of the, 587; offices of gastaldo and sculdasco under the government of the, 588; laws of the, reduced into writing, 589; national assemblies of the, *ib.*; legislation of the, 590; condition of the church under the, *ib.*; nature of the laws of the, 591; different codes established under the domination of the, 593.
Lombardo-Venetian kingdom, component parts of the, 649*.
Lombardy, early history of, *ib.*; cities of, 650*; diet of Roncaglia of the cities of, 651*; league of, 652; peace of Constance declares the independence of the cities of, *ib.*; princes and absolute government established in the cities of, 654*; the Viscontis assume the supreme power in, *ib.*; they are succeeded by the Sforzas, 655*; falls under the domination of Spain, 656*; tyranny of the Spanish government in, *ib.*; changes of domination in, during the 18th century, 657*; Austrian domination established in, 658*; character of the Austrian administration in, *ib.*; constitution of 1815, 659*; real nature of that constitution, 661*.
Longinus, exarch of Italy, 582.
Louis the Débonnaire, or the Pious, history of, 398.
Louis, the Germanic, 399.
Louis VI. favours the towns against the barons, 434; character of, 435.
Louis VII., character and history of, 435.
Louis IX., or Saint, character of, 442; tries in vain to resist the papal encroachments, 530.
Louis XI., character and history of, 452.
Louis XII., character of, 454; invades Naples, and is expelled thence, 604.
Louis XIII., increase of the power of the crown under, 456.
Louis XIV., consolidates absolute power in France, 457; acts of tyranny of, *ib.*
Louis XV., character of, 458.
Louis XVI., consequence of the marriage of, with an archduchess of Austria, 458.
Louis II., king of Italy, *vide* Benevento.
Louvois, anecdote of, 457.
Lucca, early history of, 637*; it belongs to the party of Ghibellins, *ib.*; under Castruccio Castracani, *ib.*; conquered for a time by the Viscouti of Milan, 638*; oligarchic government established, *ib.*; attempt of Burlamacchi to liberate, *ib.*; Martini establishes a new mode of government in, *ib.*; recent history of, *ib.*; present state of, 640*.
Lusatia, *vide* Saxony.

Mably's opinions quoted, 272, 391.
Maîtres des requêtes, origin of the office of the, in France, 412.
Mahrattas, confederation of, resembles the Germanic one, 333; *vide* Peishwa.
Mallum, assembly of, 375; *vide* also Lombardy's cities.
Malthus, works of, 32.
Manchows, *vide* Tartars.
Manners, good and refined, in what consist the, 156.
Manuary right, 474.
Marchands, prévôt des, office of, in France, 380.
Margaret, queen, *vide* Denmark, Sweden.
Maria Theresa, empress of Austria, reforms introduced by, 530.
Maria Louisa, *vide* Parma.
Marriage in the feudal law, 287.
Martel, chronista of Arragon, *vide* Arragon.
Martini, *vide* Lucca.
Matilda, countess, bestows her inheritance on the pope, 550.
Matilda, queen of Denmark, *vide* Denmark.
Masaniello, revolution of, at Naples, 609*.
Mayors of the palace in France, history of the, 78, 267, 373.
Meao-tse, a Chinese tribe, 181.
Medina del Campo, arbitral sentence of, 615.
Medici, family of; Cosmo; Alessandro; Lorenzo, *vide* Florence.
Mencius, *vide* Confucius.
Mentz, archbishop of, functions of the, 486.
Mentzicoff, favourite of Peter the Great, 205.
Merchants, classification and privileges of, in Russia, 250.
Merovingian, origin of the name of, 370; race, genealogical table of the, 394.
Michael Federovich Romanoff, czar of Muscovy, history of, 203; 235.
Mikaddo, ecclesiastical emperor of Japan, 189.
Milan, *vide* Lombardy.
Military service, feudal, 282.
Military conscription in Austria, 519.

Mill's works, 32.
Ministries in Russia, 254.
Missi dominici, 382, 392, 399, 402.
Modena, history of, 641*; absolute nature of the government of, 642*; tyranny of absolute power in, 644*.
Mogul, *vide* Tartars.
Mohammed II. orders the formation of a code of laws, 111.
Mohammed Khan or Aga, shah of Persia, 125.
Mohammed's descendants, privileges of, 103, 104.
Mohammedan religion, political precepts of, 103; inculcates fatalism, 104.
Mollah Koshrew, compiles a code of laws, 111.
Monarchy, etymology of the word, 73; nature of an absolute and of a limited, 73, 75; origin of, 329; effects of, 357; tendency of a, towards despotism, and the evils thereof, *ib.*; personal influence of the sovereign in a, 358; his alliance with the nobility not favourable to the interests of the people at large, *ib.*; warlike propensities of a, *ib.*; inclination to extravagance in a, 359; standing army in a, 360; destruction of self-government, 360; introduction of the laws of primogeniture and entail, *ib.*; arbitrary proceedings of the crown in a, 362.
Monarchies, undue praise bestowed on the continental, from fear of the French revolution, *ib.*; influence of, on the national character, *ib.*; vigour of administration in, 363; advantages of hereditary succession in, *ib.*
Monarchy, constitutional, manner how a, is formed, 79; pure, or absolute, in what consists a, 101.
Monastic orders, origin and effects of the, 388.
Mongols, *vide* Tartars.
Montaigne's description of Ferrara, 556.
Montesquieu's works and opinions quoted, 32, 94, 272, 274, 356, 369, 385, 417, 479, 491.
Montlosier's 'Monarchie Française' quoted, 376.
Moors conquer Spain, 268.
Mudjets, Persian ecclesiastics, 122.
Mufti, chief priest of Turkey, 103, 105; frequently denounces the Sultan, 118.
Muratori's opinion of Charlemagne, 393.
Murat, Joachim, becomes king of Naples, 605; leaves a constitution to Naples which is never executed, 616*; improvement made in Naples by, *ib.* and 619*.

Nadir, shah of Persia, history of, 122, 125, 221, 222.
Nakib, a Turkish judicial court, 105.
Naples and Sicily, component parts of the kingdoms of, 581.
Naples, state of, under the Goths, 581; under the Eastern emperors, 583; conquered by the Lombards, 584; by the Normans, 586; state of, under the Lombards, 586—593; establishment of different codes, 593; Norman monarchy in, 594; modified feudal system, *ib.*; Norman policy in, 595; papal authority over, *ib.*; controversy whether the royal title belonged originally to, or to Sicily, 596; laws of Roger in, 597; high officers of the crown, *ib.*; reigns of Roger's successors, 598; of the Swabian line, *ib.*; laws of the Williams and of Frederick I., 599; reign of the Anjou line, 601; of the Arragon line, 602; viceregal government in, *ib.*; reforms of Alphonso I., 603; of Ferdinand I., *ib.*; influence of the imperfect federal union on, 604; foreign influence on, 605; parliaments of, 606; description of the different courts of justice and administration in, 607, 609*; revolt of Masaniello, 609*; constitution of Joseph Buonaparte, 616*; of Joachim Murat, *ib.*; present administration of, 616*; restoration of 1815, 621*; revolution of 1820, 622*; interference of the holy alliance, *ib.*
Napoleon, *vide* Germanic empire, confederation of the Rhine.
Narses, 268, 582.
National Assemblies in France, 374, 380, 402.
Nepotism, 571.
Neri et Bianchi, *vide* Florence.
Neustria, situation and history of, 370.
Nicholas III., pope, becomes suzerain of Bologna, 555.
Nobles, in Russia, present condition of, 208, 248; privileges formerly attached to the antiquity of birth, 209; abolished by Feodor Alexivich, *ib.*
Nobility, origin of, 306; gradation of, 308; entirely territorial in the origin, 314; two-fold manner of creating, in England, 315; hereditary, restraint on the power of the crown by, 314; nature of the, *ib.*; tendency of the, to act in concert and to resist the encroachments of the crown, 345; qualification of the, to act in that manner, *ib.*; responsibility of the, 346; numerous in Hungary and Poland, *ib.*; weight of the, with the people, *ib.*; services rendered by the, to the people and the crown, 347; abuses of the, in Denmark, Sweden, Hungary, and Poland, 349; conservative feeling of, degenerating often into resistance to improvement, *ib.*; Burke's opinions on the, 350; natural, what constitutes the, 351; in France, 560; ancient privileges of the, 561; modern, 562; was sold, 563; in

France was forced upon individuals, 563; suspended in certain cases, 563; forfeited, *ib.*
Normans, establishment of the, in France, 393; in Naples and Sicily, 586.
Norway, *vide* Denmark and Sweden.
Notables, assembly of, 430.
Notorieté, *vide* Customs of France.
Novgorod, republic of, destroyed by Ivan III. of Moscow, 199, 219.

Obedience, foundation of the duty of, 46.
Œtean league, *vide* Federal leagues.
Offices, hereditary, 311.
Officers, great, of the empire, 485.
Oldenburg and Delmenhorst, 223.
Olims, 418.
Opinion, public, freely manifested in China, 179.
Ourf, traditional law in Persia, 121.
Ostrogoths, *vide* Goths.

Pairs, *vide* Echevins.
Palatinate, barbarous devastation of the, by order of Louis XIV., 457.
Paley's works, 31.
Paley, on the right of resistance to the government, 58; on the divine right of monarchs, 62.
Paley's opinion on the alliance between state and church, 61.
Palmeri 'Istoria di Sicilia' quoted, 595.
Pandolpho, the Iron Head, *vide* Benevento.
Parental authority in China, 165.
Parliament of Paris, history of the, 412.
Parliaments of France, origin of, 411; in what manner they were filled, 414; privileges of the members of, 418; records of, *ib.*; functions of, *ib.*; struggles with the crown, 420; difference between the provincial, and that of Paris, 422; comparison of the influence of, with that of the states general, 422.
Parliaments of Naples and Sicily, 595, 606; of Sicily, 609*; writ of summons of the, under Frederick I., 611*.
Parma and Placentia, history of, 640*; absolute nature of the government of, 642*; tyranny of Maria Louisa at, 643*.
Parthenopean republic, established by the French at Naples, 615*.
Pashaw, *vide* Bashaw.
Passive obedience, doctrine of, 56.
Patriarchal dominion, origin of government, 40.
Paul, emperor of Russia, 205, 223, 231.
Paul III. and VI., popes, *vide* Nepotism.
Paul Diaconus, *vide* Warnefrid.
Paulette, tax of, in France, 416.
Pays d'états, and Pays d'élections, in France, 469.
Pax publica, *vide* Germanic empire.
Pax religionis, *vide* Germanic empire.
Peace, justices of the, origin of, 304.
Peasants, classification and condition of, in Russia, 251.
Peasants in Prussia invested with the property of the land which they had tenanted, 526.
Peerage, when conferred by patent for the first time, 315.
Peers in France, 412.
Pegu, *vide* Birman empire.
Peishwa, hereditary minister of the king of Mahrattas, 78.
People, the real origin of power, and government exists only for its sake, 63.
People, welfare of the, the only consideration in resisting a bad government, 160.
Pepin becomes king of France, 373; increases the Papal States, 545; *vide* also Lombards.
Pepoli, *vide* Bologna.
Persia successively conquered by different nations, 120; Koran the basis of its polity, *ib.*; Koran, differently interpreted in, than in Turkey, *ib.*; power of the sovereign as absolute in, as in Turkey, *ib.*; difference between the administration of, and Turkey, 121; written and traditional law of, *ib.*; contention between the ecclesiastical and civil authorities in, *ib.*; no office of a high priest in, 122; manner of administering justice in, 122; laws more barbarous in, than in Turkey, 123; restraints on the sovereign's power in, *ib.*; perverse administration of, *ib.*; the history of, contains more atrocities than that of Turkey, 124; inhabitants of, inferior in character to the Turks, *ib.*; usual treatment of the princes of, *ib.*; frequent changes of dynasty in, 126; table of the succession of the monarchs of, 128; inhabitants of, differ less in manners from the Europeans than from the inhabitants of the farther East, 129; aggressions of Russia on, 221, 226, 227.
Perugia, history of, 555.
Peter the Great, history of, 200, 204, 205, 212, 213, 221; his merits in promoting civilization compared to those of his predecessors, 237; examination of the character, merits, and works of, 238.
Peter III., emperor of Russia, 222, 223.
Peter of Arragon becomes king of Sicily, 601.
Petty States, *vide* States.
Pharamond, traditions respecting, 366.
Philip Augustus, history of, 436.
Philip the Fair regulates the parliaments of France, 414; opposes the pretensions of the pope, 551.

Piazze, popular assemblies of Naples, 607.
Piedmont, *vide* Italian monarchies and Sardinian kingdoms.
Pisa, *vide* Florence.
Pists, assembly of, distinguishes the provinces of France according to the laws by which they were ruled, 405.
Pius VII., pope, reforms introduced by, 567.
Placita, assembly of, 375; *vide* also Parma.
Placitum, *vide* Lombard cities.
Plenum, *vide* German confederation.
Plescow, *vide* Novgorod.
Podesta, office of, 542.
Poland, various attempts of Russia on, 228; origin of the partition of, 229; continuation of bad government in, guaranteed by the partitioning powers, 231; nobility of, *vide* Nobility.
Political science, or philosophy, definition of, 4; division of, into different branches, 6.
Political economy and arithmetic, 7, 8.
Political science, pleasures and advantages of, 12, 13; objection to the study of, by the generality of the public, refuted, and its advantages proved, 15; defects of the works published on, 31.
Political rights, *vide* Rights.
Policy, domestic, 6; foreign, 9.
Pontion, council of, adds to the power of the bishops, 402.
Pope, origin and progress of the power of the, 545; subject to the authority of Charlemagne, *ib.*; makes encroachments upon the imperial authority under the successors of Charlemagne, but is again restrained by the German emperors, 456; usurps great power under Gregory VII., *ib.*; manner of electing the, is fixed, 547; pecuniary exactions of the, 549; increase of temporal dominions, 550; decline of the power of the, *ib.*; transfer of the residence of the, from Rome to Avignon, *ib.*; opposition to the, by France, 551; by England, *ib.*; by the diet of Frankfort, 552; government of the, different manners in which it was exercised in his possessions, 553; encroachments of the Roman nobles on the power of the, *ib.*; insurrection of Rienzi against the power of, *ib.*; government of the, established at Ancona, 555; at Bologna, *ib.*; at Ferrara, 556; threefold capacity of the, 559; government of the, its frame and peculiarities, *ib.*; election of the, *ib.*; ministers of the, 560; etiquette of the government of the, 561; government of the, congregations of the, 562; suspicious spirit of the government of the, *ib.*; Cameras of, 562; prefectures of, *ib.*; occasional congregations, 563; provinces of the, and their government, *vide* Delegations; courts of justice in the states of the, 566; absolute power of the, 569; number of priests in the states of the, *ib.*; army of the, *ib.*; revenues of the, 570; practical checks on the power of the, *ib.*; defective system of the administration of the states of the, 570, 572; choice of a, 574; frequent changes of the policy of the, *ib.*; sale of places under the government of the, 575; financial system of the government of the, *ib.*; general reflections on the government of the, 576.
Popes, list of, from the year 336 to 1831; 577; authority of the, over Naples and Sicily, 595.
Popular feeling is sometimes wrong on important questions of state, 150.
Popular government, comparison of the advantages of a, with those of an absolute one, 148, 149; favourable to the maintenance of public law, 493.
Popular rights, edicts respecting, promulgated by the German confederation, 502.
Popular constitutions, all improvements precarious without, 329; proofs of this from the history of Prussia, *ib.*; of Austria, 530; of France, 531; of Hanover and England, 532.
Portugal, early history of, 611; cortes of, origin of the, 615; rights of the cortes of, 621; constitution of Lamego in, 622; elevation of the family of Braganza to the throne of, *ib.*; constitution of, 1817, *ib.*
Pot, Philip, patriotic and liberal doctrines of, 454.
Pourprision, or purpresture, 286.
Power, doctrine of the balance of, 480, 481, 495; balance of, destroyed by Prussia, 517.
Præmunire, statute of, 551.
Prætors, *vide* Echevins.
Pragmatic Sanction, 518.
Precaire, term given to certain possessions, 383.
Pre-emption, right of, in France, 465.
Pregoni, *vide* Sardinia.
Prescription, right of, gives strength to government, 47; secures property, 48.
Presidents of parliament, office of, in France, 414.
Press, laws respecting the, in Germany, 501, 502.
Prevenzione, tabella di, 568.
Principi del governo, *vide* Florence.
Printing known at an early period in China, 170.
Privileged classes, freedom from many taxes of the, in France, 470.

Procurator, office of, in Russia, 255.
Procureur du Roi, office of, in France, 416, 468.
Propaganda fide, college de, 564.
Protestants, massacre of, at Paris, 455; origin of the name of, 403; persecution of, in Bohemia, 516.
Provisors, statute of, 551.
Prussia destroys the federal constitution of Germany, 490; consequences of it, 493; monarchy, history of the, 520, 521, 522, 523; improvements and reforms introduced by Frederick I. and Frederick II., 523; by Napoleon, 525; Frederick Wilhelm, *ib.*; system of general education in, 526; delay of a representative constitution, 527; restrictions on the press, 528; vices of the government of, *ib.*; government of, affords the best proof that all improvements are precarious without a popular constitution, 529.
Public opinion of Europe, influence of the, on the sovereigns of Russia, 216.
Public law, origin of, 490; objects and provisions of the, 491; popular governments favourable to the maintenance of, 493; difference between the, and the municipal one, 494.

Quint and requint, dues of, in France, 466.

Rachimburghers, 375, 383.
Rahaans, 134.
Rank, submission to, less preposterous than to multitude, 318.
Ranks, classification of, in Russia, 247.
Ratharic, *vide* Lombard laws.
Ratisbon, *vide* Diet of the empire.
Rebellion, right of, possessed by the feudal barons, 294.
Recess, *vide* Germanic empire.
Reconciliation, courts of, *vide* Denmark.
Reciperli, several great officers of Turkey belonging to the family of, 117.
Reformation, effects of the, on the church of Rome, 551.
Regale, profits of, 551.
Regidors, *vide* Cortes of Spain.
Regno, deputati di Regno, *vide* Parliament of Sicily.
Relief, 283.
Religious fanaticism, evils of, 444.
Representative system a modern invention, unknown to the ancients, 89.
Representative parliament, how formed in England, 302; in other countries, 303; principles, difference between the, and federal, 480.
Republic, *vide* Aristocracy, Democracy.
Republics, warlike propensities of, 358.
Resistance to an established government, when justified, 45, 46, 52; opinion of Paley on the, 53; of Blackstone, 54; doctrine of, broached in the fourteenth century, 59.
Retrait féodal, censuel, lignager, conventionnel, *vide* Pre-emption.
Revolution, American, effects of the, 37.
Rhine, league of the, 489; confederation of the, 496, 497.
Ricardo, works of, 32.
Ricos omes, *vide* Arragon.
Rienzi, history of, 553.
Rights, political, true meaning of, 83; errors on, 85; erroneous opinion of Burke on, 86.
Ripe ed aque, prefecture of, 563.
Ripuary laws, 367, 405.
Robertson quoted, 272, 289.
Roger, king of Naples and Sicily, history of, 595, 597, 598.
Rois fainéans, *in* France, 871.
Romanoff, accession of the family to the throne of Muscovy, 200, 203.
Rome, constitution of, 93; decline of the empire, 258; empire of, invaded in its different provinces, 266; church of, supports the Guelphs, 541.
Rome (modern), governor of, functions of the, 561; senator, office of the, 563; *vide* also Pope, &c.
Rome, nobles of, extravagant privileges of, 573.
Roncaglia, diet of, *vide* Lombardy.
Rosamonda, *vide* Lombards.
Roscoe's opinion quoted, 630*.
Rota, chamber of, 566.
Roturier, fief, 425.
Royaux, cas, 441.
Rurick, founder of the Russian empire, 197; extinction of the dynasty of, on the throne of Muscovy, 202.
Russia, government of, as absolute as any of the East, 193; what may be considered as the fundamental laws of, 194; opinions of Schlætzer and Tooke on this subject, *ib.*; Catherine II.'s doctrine on the, 196.
Russia, early history of, 197; conquest of, by the Tartars, *ib.*; establishment of despotism in consequence of that conquest, 198; liberated from the dominion of the Tartars, *ib.*; changes of the dynasty of, 199; short-lived constitution of, 201; events in, from the extinction of the dynasty of Rurick to the accession of that of Romanoff, 202; reign of the dynasty of Romanoff in, 203; reign of Peter the Great and of his successors, 204; and following revolutions on the throne of, 205; insecurity of the possession of the throne of, and irregularity of the succession to it, 207; revolutions on the throne of, produce no effect on the country, 208; institutions of, nothing better than tools of the monarch, *ib.*;

government of, levelling policy of the, 208; abolition of the genealogical privileges of the nobles in, 209; administration of justice in, 210; the fear of revolt the only check on the sovereign of, 212; despotism somewhat mitigated by the advance of civilization, *ib.*; cruelties of the sovereigns of, *ib.*; government of, compared to that of Turkey, 214; influence of the public opinion of Europe on the conduct of the sovereigns of, 216; foreign policy of, 217; gradual extension of the dominions of, 218; tricks of the government of, in order to magnify its conquests, 221; policy of the government of, depending often on the personal caprice of the monarch, 223; progress made by, since Peter the Great, 232; manner how the power of, was developed, 233; progress of civilisation in, before Peter the Great, 235; table of the succession to the throne of, 243; sketch of the government of, before Peter the Great, 245; of the present government of, 247.

SADAKAH, a Turkish tax, 106.
Sagra consulta, college of, 560.
Sajones, more advanced in civilisation than other barbarians, 275.
Sale of offices in France, 414; in the papal states, 575.
Salian Franks, *vide* Franks.
Salic laws, 366, 405; never introduced in Italy, 593.
Salvamenta, or Salvages, 289.
Samoderjetz, *vide* Autocrat.
Saracens conquer Spain, 610; invade France, and are expelled from that country, 390.
Sardinian kingdom, component parts of the, 662*; history of the house of Savoy, *ib.*; government of Savoy, 665*; of Piedmont, *ib.*; states in Savoy and Piedmont abolished, and senates established in their place, *ib.*; reforms and changes of Emmanuel Philibert, 666*; absolute power of the crown in, *ib.*; registration of edicts, *ib.*; codes of laws in, 667*; judicial and municipal systems, 668*.
Sardinia, island of, constitution of, 669*; early history of, *ib.*; judges in, 670*; Spanish conquest of, *ib.*; passes under the dominion of Savoy, *ib.*; feudal system lasted longer in, than elsewhere, 672*; nobility of, *ib.*; effects of the imperfect federal union on, 673*; evils of viceregal government, *ib.*; administration of, 674*; functions of regent, courts of justice, &c., *ib.*
Sardinian kingdom, government of the, since the restoration of 1814, 675*; intolerance against the Waldensians and Jews, 675*; interference with the courts of justice, *ib.*; abuses of absolute power, 676*; present king of, *ib.*; Charles Emmanuel III., *ib.*; general observations on, as well as on the Italian monarchies, 678*.
Sarmatians, 261.
Savelli, family of the, 574.
Savigny's 'History of the Civil Law' quoted, 369, 380.
Savoy, *vide* Italian monarchies, and Sardinian kingdom.
Saxon kingdoms, manner in which the succession to the throne was regulated in the, 100.
Saxons conquer Britain, 266.
Saxony, constitution of, ancient, 533; modern, 534.
Scabini, *vide* Echevins, and Lombard cities.
Scandinavians, 261.
Schembwan, *vide* Birman empire.
Schism, the great, in the Roman church, 550.
Sciences, division of, into three general classes, 1; political, *vide* Political science.
Sclavonians, 270.
Sclopis, 'Legislazione Italiana' by, quoted, 543.
Scotland, nobility of, 315; pretensions of the popes to the dominion of, 547, 551.
Scottish chieftain, absurd pretensions of a, 42.
Sculdasco, office of, 588.
Scutage, 203.
Scythians, 261.
Secretary of state, cardinal, 560.
Sedili, popular assemblies of Naples, 607.
Sefi dynasty, *vide* Persia.
Seggi, popular assemblies of Naples, 607.
Seigneur, droit de, 287; nulle terre sans, principle of the feudal law, 289.
Seizin, livery of, 282.
Selden's opinion on the origin of tithes, 385.
Senate, organisation of the, in Russia, 253.
Senator of Rome, office of the, 563.
Seraglio, 116.
Serfs, protection to the, given in Prussia, 524; emancipation of the, in the same country, 525; in Austria, 530.
Sforza, *vide* Italian monarchies, and Lombardy.
Sheik al Islam, 122.
Sherh, written law of Persia, 121.
Shooyski, czar of Muscovy, 199, 203.
Siena, *vide* Florence.
Sicily, acquired by the house of Savoy through the treaty of Utrecht, 605; separate parliaments of, 606; composition of the parliament of, 610*; writ of summons to the parliament of, 611*;

proceedings and privileges of the parliament of, 612*; feudal system and burdens in, 613*; Spanish oppression of, 614*; administration of justice in, 615*; constitution of 1812, 619.
Siredraw, high priest of the Birman empire, 134.
Sixtus IV., pope, *vide* Nepotism.
Sixtus V., pope, financial measure of, 575; also *vide* Nepotism.
Slavery, state of, in the feudal system, 288.
Smith, Adam, works of, 31.
Soamios, 190.
Socage, 281.
Solicitation of judges in France, 465.
Sophia, princess of Russia, 204, 236.
Spain, early history of, 609; original constitution of, 610; state of towns in, 612; origin of cortes in, *ib.*; original influence of the nobility and clergy in, 620; their impolicy in acting against the commons, *ib.*; they are subdued by the crown, *ib.*; the cortes of, reduced to a nominal representation, *ib.*; last meeting of the cortes of, 621; constitution of 1808, 622; loss of liberty in, and causes of it, 623, 624, 625; practical lessons to be derived from the loss of liberty in, 627.
Spanish dynasty, character of the government of the, in Naples and Sicily, 602.
Spanish domination, effects of in Naples and Sicily, 614*.
Sparta, constitution of, 91.
Stability, want of, in absolute governments, 153.
Stamenti, *vide* Parliament of Italy.
Standing armies, origin and effects of, in France, 450.
State, what constitutes the, 27.
States general, comparison of the influence of the, with that of the parliament in France, 423; of France, origin of, *ib.*; and particular, 425; history of the, 426; last meeting of the, under Louis XIII., 429; assembly of the, at the Revolution, 430; constitution of the, at the Revolution, 431.
States, petty, evils of, illustrated by the examples of Parma, Modena, and Lucca, 646*.
Stein, reforms introduced by, in Prussia, 525.
Stewart, Sir James, works on politics of, 32.
Strategos, office of, 477.
Strozzi, *vide* Florence.
Struensee, *vide* Denmark.
Subfeudation, or Sub-infeudation, 278.
Sultan of Turkey, extent of the power of the, 102; his power checked by some privileged bodies, 104; subject to great abuses, 105; chief limits of the, 107; principal evils of, 108; he is frequently deposed and murdered, 118; authority envied by Louis XIV., 120.
Supreme power, the various ways in which the, may be established, distributed, and exercised, from the distinctions between one constitution and another, 69; wherein does it reside? 91.
Sweden, ancient constitution of, 639; introduction of the reformation and establishment of an hereditary throne by Gustavus Vasa, 640; establishment of an absolute government by Charles XI., 640; restoration of the ancient constitution, *ib.*; revolution effected by Gustavus III., and constitution introduced by him, 641; present constitution of, 643.
Synaci, *vide* Government of Naples.
Syndici, *vide* Parliament of Sicily.
Synod, supreme, of Russia, 254.
Tacitus' account of the Germans, 98, 259, 272, 275, 276, 279, 289, 299; of the Finns, 260.
Taille, impost of, 424, 448.
Tancred, *vide* Naples and Sicily.
Tartar prince, absurd pretensions to dignity of a, 42.
Tartars, or Mongols, conquer China, 110, 164; expelled from China, 165; Manchows, conquer China, 110, 165; preference given to the, over the Chinese, 178.
Tartars, influence of the dominion of the, on Russia, 234, 235.
Tasso, *vide* Narsès.
Taxation in Turkey, 106; general, avoided by the Sultans, 108.
Taxes, exemption from, in France, 447; power of the crown, in the same country, to impose, 448.
Taxing, power of, limited in feudal governments, 341.
Test by which every institution must be tried, 65.
Thessalian league, *vide* Federal league.
Thibet, form of government in, 98.
Tide jori, or Taiko sama, *vide* Japan.
Timar, Turkish tenure of land, 335.
Tithes, origin of the, in France and England, 385.
Toledo, council of, promulgates a code of laws, 368.
Torture, early abolition of, in Arragon, 619.
Tory, origin of the appellation, 55; distinction between, and Whig, *ib.*; strength of, party at the time of the deposition of James II., 57.
Toulouse, privilege of the university of, 461.
Tournon's work on Rome, 359.
Tours, states general of, oppose the crown, 454.
Towns, administration of, in Russia, 256;

rise of, causes the decline of feudality, 325; rise of, and their influence on the formation of constitutional government, 340; rise of, in France, 434, 437; in France, stripped of their privileges, 450; state of, in Spain, 612; of the empire, *vide* Empire.
Trail-baston, commission of, 304.
Treasurer general of the pope, functions of the, 562.
Trenck, baron, arbitrary persecution of, by Frederick II., 529.
Tribunale civile, *vide* Government of Naples.
Tribunals, judicial, organisation of, in Russia, 255.
Truce of God, 298.
Tsao, sect of, in China, 176.
Tudors, more despotic than the Stuarts, 60.
Turbe, enquête de, *vide* Customs of France.
Turcomans, founders of the Turkish empire, 110.
Turkey, taxation in, 106; government of, not so bad as it might be expected, 112; details of, seldom well described, *ib.*; difference between the, and that of England, 114; foundation of the laws of, *ib.*; administration of, regulated chiefly by usage, 115; organisation of the, *ib.*; chief dignitaries of, 116; laws of, arbitrarily explained, 119; table of the succession of the sovereigns of, 127; acquisitions of Russia in, 227.
Turks, conduct of, after their capture of Constantinople, 110; gradually improved in civilisation, *ib.*; possess a code of laws, 111; brought by their conquest of Greece in contact with the West, 129; differ in their manner from Europeans less than from the nations farther East, 129.

Ubert, *vide* Florence.
Udienza, court of justice, at Naples, 608.
Uditore santissimo, office of, 561.
Ulema, privileges of the, 104; influence of the, 117.
Union, privilege of, in Arragon, *vide* Arragon; in Valencia, 619.
Universidades, *vide* Cortes of Arragon.
Urban VIII., *vide* Nepotism.
Useful Knowledge, Society for the Diffusion of, its reasons for undertaking this work, 31.
Utrecht, treaty of, gives Sicily to the house of Savoy, 608.

Vacations, *vide* Fees.
Vandals, 265, 266, 305.
Vasa, Gustavus, *vide* Sweden, Denmark.
Vassal, duties of a, towards his lord, 281, 309.
Veneti, 262.
Vespers, Sicilian, 601.
Vicaria, gran corte della, court of justice at Naples, 608.
Viecha, popular assembly in Russia, 197.
Vigne, Peter delle, *vide* Frederick I. of Sicily.
Viguier, *vide* Viscount.
Villenage abolished in Bohemia, 518; in Wirtemberg, 536; state of, in Spain, 612.
Vingtième, tax of, in France, 449.
Visconti, *vide* Italian monarchies, Bologna, Lombardy.
Viscount, or Viguier, office of, 375.
Visigoths, laws of the, 368, 404; monarchy of, in Spain, 609, 610; also, *vide* Goths.
Vizier, grand, of Turkey, 102; of Persia, 120.
Vladislas, prince of Poland, elected czar of Muscovy, 203.
Voltaire's opinion on China, 186; loose conduct in flattering Frederick II. and Catherine II., and praising their political crimes, 230; faults and merits of the historical works of, *ib.*; limits the history of Russia to Peter the Great, 233; fallacy of his judgment on Peter the Great, 240, 241, 242.

Wager of battle, existed not long ago in the English law, 123.
Waldenses, *vide* Sardinian kingdoms.
War, right of private, in feudal times, 296; established by laws, 297; gradually abolished by the united efforts of the crown and the clergy, 298, 444.
Ward, or wardship, in the feudal law, 287.
Warnefrid, Paul, quoted, 583, 593.
Westphalia, treaty of, *vide* Constitution of the Germanic empire.
Whig, origin of the appellation of, 55; difference between, and Tory, *ib.*; party, popular for its resistance to the divine right of monarchs, 63.
William I. and II., *vide* Sicily.
Wirtemberg, constitution of, 536.
Wittenagemote, 301.
Woman's mark, in feudal law, 288.
Woungees, Birman ministers, 134.
Worms, concordat of, 518.

Zakah, a Turkish tax, 106.
Zaim, 335.
Zaporague Cossacks dispersed by Catherine II., 224.
Zekiatu-l-Kharij, a Turkish tax, 107.
Zemskaya-duma, national assembly of Muscovy, 199.
Zottone, *vide* Benevento.

POLITICAL PHILOSOPHY.

ERRATA.

Page.	Line.	
2	31	*for* nor *read* or.
5	6	*for* when *read* where.
6	32	*dele* for public purposes.
6	39	*for* the *read* those.
6	41	*for* national *read* internal.
10	24	*for* of the more considerable of two substances, which; *read;* of two substances, the more considerable of which.
10	36	*for* extensive *read* extreme.
10	4	of note, *for* a *read* or the.
11	2	*for* course *read* courses.
13	5	*dele* only, and after labour *insert* alone.
15	1	*dele* that.
16	10	*for* presented *read* pointed.
23	6	from bottom, *for* inflames *read* professes to.
44	20	*for* person interested, *read* person's interest.
54	36	*for* youths *read* youth.
56	6	*for* was *read* were.
63	4	*for* grave-written *read* grave, written.
64	5	*before* the people *insert* the interest of.
65	6	of Contents, *for* free *read* good.
84	34	*for* come *read* came.
88	13	*for* abuses *read* absence.
90	15	*for* may *read* might.
90	18	*for* is *read* was.
93	35	*for* choose *read* chose; and *for* shall *read* should.
93	35	*after* France *insert* during the republic.
94	20	*for* these *read* three.
94	32	*for* to *read* of.
117	16	*for* Reciperli *read* Kivsevli.
243	Table	*for* 1689 *read* 1704; *for* 1681 *read* 1682.
243	Table.	*for* Ivan V., czar 1652, and Peter I., czar 1696, *read* Ivan V., czar with Peter I. 1682, Peter I. sole czar 1689.
243	Table	*for* d. d. 1613 *read* dep. 1613, d. 1648.
496	9	*for* encouragement *read* aggrandisement.
538	19,	*dele* and Guastalla; *ib.* line 21, *dele* in one duchy; *ib.* line 29, *for* reunited *read* united; and *dele* from which it was severed.
558	6	*for* it *read* Ferrara.
596	30	*for* Telesino *read* Telese.
601	*last line*,	*for* His *read* Peter's.
610*	16	*for* estates held under *read* towns of.
616*	39	*for* Guintas *read* Giuntas.
617*	2	*for* Synaci *read* Syndaci.
617*	7	*for* Guidici *read* Giudici.
617*	14	*before* resort *insert* last.
618*	26, 28, and 30	*for* dominum *read* dominium.
619*	9	*for* processes *read* proceedings.

NOTE TO THE TABLE IN PAGE 128.

THE DATES OMITTED ARE AS FOLLOWS:

Sofy.
- Thamasp II., s. 1727, det. 1732.
- Abbas III., k. 1732, d. 1736, an infant.

Nadir.
- Nadir Shah (Thamas Koulikhan), regent 1732, cr. 1736, k. 1747.
- Aly Adil (Nadir's nephew), dep. 1747, and k. 1748.
- Adil Rokh (Nadir's grandson), dep. 1748, gov. of Khorassan, 1751.
- Soliman, dep. and k. 1750.

Zend Dynasty.
- Kerim Khan, 1753, d. 1773.
- Zuckee, dep. and k. 1773.
- Abul Futteh, deth., rest., dep. 1779.
- Sadak, dep. 1780, and k. 1781.
- Aly Moored, d. 1785.
- Jaafer, dep. 1785, k. 1789.
- Coff Aly, dep. 1789, and k. 1795.

Kajar D.
- Aga Mohammed, dep. 1795, k. 1797.
- Futteh Aly, cr. 1797, k. 1798.
- Mohammed Mirza.

NOTE TO CHAPTER XVI., p. 539.

The Imperial decree of 1807, creating for Princess Bacciochi a duchy of the Tuscan departments, seems at first sight to imply their separation from the Empire; but the appointments of prefects and other functionaries ever afterwards went on as before, and show that the departments of the Arno, &c., were governed like any of the French departments. See decrees 15 and 18 March, 1809, 13 Nov. 1810, 11 Jan. 1811. Napoleon calls the Tuscans "our people of the departments of the Arno," &c. The princess was only a nominal governor. See Chap. xviii.

NOTE TO CHAPTER XVII.

By the *Legge Organica* of 1838, a Special Criminal Court was created, to consist of eight judges, but with power to complete this quorum by calling in the President of the Civil Court, and the Attorney-General (*Procuratore Regio*). This court is for the trial of what are (terned) offences against the external and internal security of the realm.—There are, besides, two supreme councils, one at Naples, one at Palermo; they consist of six members each, four legal (*togati*) and two military, of whom, if one be of the rank of major-general, he is president of the court. These councils try without appeal all offences against the internal security and all offences connected with political societies (*Sette*), as Carbonari, &c., and they also try all perjuries committed in giving evidence before them.—A military commission is appointed of five judges, one of whom is legal (*togato*), to try cases of rebellion; and all questions of jurisdiction arising between this body and the supreme council are to be decided by the Secretary of State.—*A Legge Organica* in 1821 appointed a commission for each province, consisting of the Intendant (or Governor), the Procuratore Regio, and the commanding officer; to this commission was given the frightful power of making lists of *fuorlanditi* (outlaws), and unless within eight days the party or his friends appear, and offer a valid excuse for his absence, the outlawry is conclusive. These and all the other existing laws respecting the judicial system (if we can call it so) are digested in a work, published in 1840, entitled, "*Codice della Organizzazione e Competenza dei Poteri giudiziali.*"

00027459

Digitized with financial assistance from the
Government of Maharashtra
on 23 March, 2016